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ADVICE *Bury (Jacob)* TO THE COMMONS

Within all His MAJESTIES
Realms and Dominions.

Written By *Jacob Bury* Esq; An old Indigent Officer
for the County of *Bedford*, as a Captain of Horse
in the Royal Army, of King *Charles* the First.

Containing the perfect Harmony, Consent, and Agreement
between Divinity and Law, in defence of the Government
Established by Law in Church and State. And that Kingly
Government is by Divine Right.

Nil dictum, nec scriptum est, quod non dictum, & scriptum prius.

L O N D O N,

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ADDENDUM
TO THE
COMMONS

OF THE
REVENUE AND FINANCE

IN THE
MONTH OF JANUARY

1840

BY

JOHN R. HARRIS, ESQ.
OF THE HOUSE OF COMMONS



*To the Right Honourable Robert Earl of
Ailesbury and Elgin, Vicount Bruce of
Amphill, Baron Bruce of Wharlton,
Skelton, and Kinloss, Lord of the Honour
of Amphill, High Steward of Leicester,
Lord Lieutenant and Custos Rotulorum
of the Counties of Bedford, Huntington,
and Cambridge, and one of the Lords of
His Majesties most Honourable Privy Coun-
cil, &c.*

Right Honourable,

HAVING received some kindness from your Lord-
ship, as also from the rest of His Majesties Com-
missioners of the Peace, for the County of *Bedford*;
whereof, and wherein, your Honour is deservedly
(for your known and well approved Loyalty) *Sum-
mus procerum, & proximus à Rege*, the Chiefest of the
A 2 Gover-

The Epistle Dedicatory.

Governours, and the very next under, and after the King; therefore I thought my self obliged to shew my thankfulness, by doing something that might tend to the good of the whole Community. In order thereunto, I was principally moved to Write this small ensuing Treatise, wherein is contained chiefly, The perfect Harmony, Consent, and Agreement between Divinity and Law, in Defence of the Government by Law established in Church and State; and is plainly demonstrated, That Kingly Government is by Divine Right. And now, my Lord, I most humbly beg your Pardon, that I presume to prefix your great Name before this Discourse: But since there is nothing therein, but what hath its Weight and Warrant from the Holy Scriptures, or our Authentick, undeniable, and well approved of Books of Law; I cannot but hope your kind Approbation and Acceptance, and am very well pleased, I have the occasion offered me, to let your Honour know how much I am.

My Lord,

Your most Humble and

very Obedient Servant,

Jacob Bury.

T H E

THE
PREFACE
TO THE
READER.

Courteous Reader,

T*His small ensuing Treatise (Entituled Advice to the Commons within all His Majesties Realms and Dominions) are confessed to be but the Gleanings of an Old Indigent Officer of the Royal Army of King Charles the First; gathered from the vintage, or the larger and more Fruitful Fields, of such Authentick Books of Law, &c. as are cited by the Author for his Vouchers. It was Written in time a little before, and is Published in short time after the Demise or Death of the Natural Body of our late most Gracious Sovereign Lord King Charles the Second, who to his Glory and Honour in all after Ages to come, will be Chronicled Miraculously to have excelled all his Royal Ancestors in Mercy, and Amnesty to all his Subjects whatsoever that survive him: by whose Prudent Governance, and Wise Management of all Publick Affairs, the Publick*

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lick Peace of these Kingdoms, was to a Miracle preserved ever since his long expected, and (for good reasons) much wished for Restauration. Now (blessed be God for it) his rightful Successor (whom God long preserve) hath declared and promised, that as he is by Right of Bloud, and Act in Law, next and immediately to succeed his said dear Royal Brother in the Station God hath placed him (that is to say) in the Governance of these his Realms and Dominions, as our Sovereign Lord and King, so he shall always imitate his Predecessor in Clemency and Mercy to his Subjects; that however he hath before (by Wicked and foul Mouthed Detraction) been misreported to have been for Arbitrary Government; that he always shall, and will do his utmost endeavours, for the defence and preservation of the Government (as it is Established by Law) in Church and State; that he will invade no Mans property, &c. Now seeing that it hath pleased God to take to himself from us, our late Gracious Sovereign, let us all rest contented, and fully satisfied that we have wofully experienced the Mouths of Slanderors to have been always apt to call all things into question; but that always also they have been unready to approve of any thing tending to the publick Peace and welfare of the whole Community. Therefore believe the Word and gracious Promise of his Sacred Majesty; believe not every Idle report, neither be moved by vain suggestions, least through light trust, thou bring thy self into danger, and (which is more bad) be counted a fool. Let us all believe that (none sprung from the Loyns of King James the First) will ever alter the Protestant Religion, or the Government Established by Law in Church and State. Remember there was this Plea allowed in bar of an Action brought in the late times of Rebellion, for that the Plantiff had not taken the ingagement to be true and faithful to the Commonwealth without King or House of Lords. Take into consideration also, what the Impression and Charecter of the Money Coined at Oxford was in those times; and also consider what was the Impression and Charecter of the Money then Coined by the late Usurpers; these matters (duly considered) will without further Arguments demonstrate, what
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the good Old Cause Men aimed at; certainly they aimed at nothing less than the alteration of the Government both in Church and State, and in order thereunto it may be said, that at the last, they Fought neither against great nor small, but only against King Charles the First, the blessed Martyr of ever blessed Memory. Now, though it be in these his Majesties Realms and Dominions suffered to every one by Lawful ways and means to desire to aspire to a better private Fortune; yet withal it is an Office just in all inferior degrees, to bear without grudging the Ordinance, and Sentence of their Lord, otherwise there would be confusion of all Imperies and Governments, if it were suffered to every one to aspire to such liberty as he lusteth after, beyond the quality, State, and condition of a Subject, wherein God hath placed him. The late Plots proceeded (as it were) by the publick consent of the Dissenters to the present Government, and by incitation of certain Seditious Heads, who (by their rashness) are wont to draw the Commons into commotion, that by Poverty are assured they can lose nothing, and by their Nature are always desirous of Innovation, and being easily filled with vain errors, and false persuasions, are moved at the appetite of any that will provoke them and be their leaders; as the Waves of the Sea are carried and hurried hither and thither with the blasts of the Wind. Therefore every Law was made at the first, to no other end, but to bridle such as would live without Reason and Law, and to restrain and be a curb to such as will not Conform, and be Obedient to those Rules the Law prescribeth, requiring their Obedience to the Magistrates Superior, Middle, and Inferior, and as all are to know, the Superior is not, nor can be subject to the controul of the Inferior. In pares est nullum imperium, multo minus in eos, qui majus imperium habent, therefore all Magistrates Subordinate, be they either of the Superior, Middle, or Inferior Rank, and à fortiori, all other Subjects whatsoever, are to be Obedient to their Sovereign Lord the King, as Supream, qui majus imo maximum imperium habet, that hath the greater, yea the greatest Command, Power and Supream Sovereignty over all his Subjects in these his Majesties Realms and Dominions.

But

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But as to this matter of the Kings Supremacy, in Church and State. Here I shall say no more, but shall leave all to be further informed as to their bounden Duties therein, in this ensuing Treatise; wherein is more fully and at large discoursed thereof. I remember in this ensuing Discourse also is said, (citing Sir Edward Coke in 7th. Report 7. b. in Calvins Case) that every Subject is bound to go with the King in his Wars, infra & extra Regnum, but he is there pleased to add, that the Subject is not compellable to go out of the Kingdom without Wages: and citeth many Statutes as 8th. Ed. the 3d. ca. 7th, &c. in defence of his opinion. I do not presume to contradict him, but am satisfied that he sheweth good warrant for what he there Writeth. Moreover, no considerable Foreign War upon any occasion whatsoever is ever so rashly undertaken, but first the King useth to Summon his great Council the Parliament, and therein is the Honour, Interest, and safety of the King and Kingdom considered; and Parliamentary Supplies are granted, for the defraying, carrying on, and answering the necessary charges of the War: however Sir Ed. Coke denieth not, but infra regnum, within the Kingdom, all are compellable, and bound by duty of their Allegiance, with or without Wages to serve the Lord the King in his Wars; for then, if ever that saying is true, *ad regem potestas omnium pertinet, ad singulos proprietates*, the Power of all Men and all Things they have, enjoy or possess, belongeth to the King: and yet every Mans single property remains, and is continued: (but as may be seen in St. Jermin in his Doct. and Stud. 64. b.) The Law doth assign divers conditions upon the Property, and that, to alter the Property without consent of the Owner, if the conditions are not contrary to the Law of God or Reason. And nothing is more agreeing with the Law of God; nay, our Obedience to the King as Supream, is commanded in and by the Word of God; and nothing can be more agreeable to Reason, unless we will simply and contrary to all Reason, admit of the Children to give Laws to their Father, or Infants Males or Females to give Suck to their Mothers. And it is a thing obvious and well known to every Man (that knoweth any thing in our Law) that every Mans Property and Estates whatsoever by Act in Law are
Forfeit

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Forfeit to the King for Treason, or Felony: for Treason (which all and every Rebellion is) to the King for ever, of what mean Lord soever they are holden: for Felony, to the King for a Year, Day, and Waste; and afterwards to the Lord of the Mannor of whom they are holden for ever. In my ensuing Discourse (to shew what care was made for the preservation of the Royal Rights, Priviledges, Jurisdictions, and Prerogatives, and Person of the King) I make mention of the Stat. made in the 12. Car. 2d. chap. 1. though in the first clause thereof by me mentioned, is said, That if any during the Life of the Kings Majesty, &c. I let this stand unaltered, though the death of the Natural Body of the late King happened since, because that clause thereof was made but in affirmance of the Common Law, and the Stat. of 25. Ed. 3. ca. 2. as to the security of the Kings Person and the Government: as appears in Mr. Stanford's Pleas of the Crown, the first chap. as to the Second and Third clauses thereof, the offenders against the Second clause are not only made incapable of any imployment in Church or State, but are also made lyable to such punishments, as by the Laws and Statutes of this Realm, are to be inflicted in such Cases. As to the Third clause thereof every Person offending against the same shall incur the danger and penalty of Premunire mentioned in the Stat. of 16. Rich. 2. ca. 5. It appeareth by Bracton, Libro 3tio. Tract. 2do. cap. 15^o. Fol. 134^o. that Canutus (the Danish King) having settled himself in this Kingdom in Peace, kept notwithstanding (for the better continuance thereof) great Armies within this Realm. The Peers and Nobles distasting the Government by Arms and Armies (odimus accipitrem, quia semper vivit in armis) Wisely and Politickly perswaded the King that they would provide for the safety of him and his People, and yet his Armies (carrying with them many inconveniencies) should be withdrawn: hereupon Canutus presently withdrew his Armies, and within a while after lost his Crown, and the same was restored to the right Owner. I mention this matter, and have it from Sir Ed. Coke who citeth Bracton for his voucher in his 7. rep. 16. b. and withall I desire all to take notice,

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that

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that the Excise by Act of Parliament, made in the first Parliament after his late Majesties most happy Restauration, was continued to be paid to the late King during his Life. Hearth Money was settled upon the late King, his Heirs and Successors, and was in recompence to the Crown for the dissolution of the Court of Wards and Liveries. Customs upon Merchandizes imported and exported (this little Book will tell you) were all originally payable to the King, his Heirs and Successors; and that Subsidies granted by Parliament, are but an improvement in the improvement of time, and trade, of the Ancient Customs payable to the Crown, and were granted to the late King for his Life; as they were from the time of King Henry the 7th. granted to all his Royal Ancestors, Kings and Queens of this Realm, except his Sacred Majesties Royal Father King Charles the First. Now mark what Sir Edward Coke more saith in his 7th. rep. 10th b *Hæreditas Principis, est successio in universum jus, quod defunctus Antecessor suus habuit*, The Inheritance of the Prince is his Succession unto every Right that his deceased Ancestor had. And suppose the Right Heir of the Crown had been attainted of Treason, yet shall the Crown descend to him, and eo instante (without any reversal) the attainder is utterly avoided; as it fell out in the case of King Henry the 7th. as may be seen in 1 H. 7th. Fol. 4°. I have laid down before you these matters, to let you know, that those Loyal Lords and Commons Assembled in Parliament in the 12th. year of his late Sacred Majesty, well knew that he must needs want the necessary supplies to maintain, defend, and uphold the Government, as the late Usurpers had to offend, alter, and destroy the same. The Kings Charges are great, as well for the security and safety of his own Royal Person, as for the preservation of the publick Peace of his Realms and Dominions for the general good of the whole Community. A few Teomen of the Guard (before the late times of Rebellion called Beef-eaters) were not enough for to, nor could rescue his Sacred Majesty King Charles the First, from that impious Act, execrable Murther, and unparallel'd Treason against his Sacred Person, and Life, committed the 30th. of January 1648. neither was nor could such a Guard have been sufficient to secure the late Usurpers (so ridiculous

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diculous was their Right to what they Usurped from that time, to the time of his late Majesties Restauration. We see before, how in Ancient times, King Canutus was served, so soon as he was (I grant Politickly, but how Wisely I know not.) perswaded to withdraw, and disband his Guards: it may be his Arms or Armies might be attended with many inconveniencies; but the present Guards of our Sovereign Lord the King may be necessary to be continued, if ever in this our present Age, which hath been very changeable, and one Plot or other hath been too much threatening alteration of the Government in Church and State; and these Guards of his Sacred Majesty are not attended with any inconveniencies, nor are chargeable to any but the King himself. Sir Edw. Coke saith, That the Kings Treasure is the sinews of War, and the Honour and safety of the King in times of Peace; that it is firmamentum belli, & ornamentum pacis; It is so, but I deny any War to be justifiable against the Lord our King within his Realms and Dominions: and therefore every Rising, and Force raised within the Realm is properly called a Rebellion, improperly a War. Nor do the Kings Laws Protect any Subject to trade, get, and gain a great Estate, to the end to empower him to ascend the Throne, and to stand in competition with, or to distast the Person or the Government of our rightful Sovereign Lord the King: but rather it is the bounden duty of all in general, to Love, Honour and obey their Lord the King, and proportionably according to their Estates, Qualities and Degrees to give Aides and Supplies to his necessities, for the just defence and security of his Royal Person, and the preservation of the Peace, and quietness of him and all his People, in all his Realms and Dominions. We say quo ditior est quisque eo nobilior, by so much as every Man is the more Rich, by so much he is the more Noble, by so much he is the better respected, and the more Esteemed. But I say, Principem habere ditiozem, confert ad dignitatem subditorum, ditiores habere subditos confert ad nobilitatem principis, to have the Richer Prince conduceth to the dignity of the Subjects; and to have the Richer People conduceth to the dignity of the Prince. Now all here last mentioned is to this end and purpose, that all old Animosities,

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Jealousies

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Jealousies and Fears laid aside (after his Gracious Majesty shall have convened his Parliament) unto him be given quod defunctus Antecessor suus habuit, what his deceased Ancestor had. Believe the word and promise of his Gracious Sovereign; he beginneth his Reign with Clemency and Mercy to all his Subjects, and will certainly be so far from invading your Properties, that having what was thought needful for his late Royal and Dear Brother: nay, I say, the Richer you make him, the more he will be respected at home, the more safe he and all his People will be; and the more he will certainly be feared and dreaded abroad. But least with the Foolish Architect, I make the Porch too big for the House, I say no more, only recommend to you the reading of this ensuing Treatise: which was written for the confirmation only of the more knowing and Loyal; and for the information of the more Ignorant, and therefore less Loyal Subjects. So I commit every Man to Gods protection, and rest

Every Mans well Wisher,

J. B.

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ADVICE

ADVICE

TO THE

Commons of England, &c.

CHAP. I.

Sheweth how things stood at the latter end of King James the First, and something is said of the High Court of Parliament.

AS Noah (rendred in the Word of God, *Gen. 6. and 9. ver.* to be a just and perfect Man, and one that walked with God, and that with his Family after the great deluge survived the whole World) is fictitiously said to have had two Faces, the one looking backward, the other forward, the one looking upon the World before the Flood, the other on the World after the Flood; so an old indigent Officer of the Kings Majesties Army, *King Charles the First of ever Blessed Memory*, may not improperly be said to have two Faces, the one looking backward, the other forward, the one looking on this Kingdom of *England* before the late Civil War, the other on the same since the said War. Taking leave to look backward and to examine how, and in what state of Affairs things stood in the latter end of the Reign of *King James the First*, and how the said *King Charles the First* found things upon the demise of the Kingdom to him, upon the death of the natural Body of His said Royal Ancestor. I collect out of what I have read long since, that about the Nineteenth year of the Reign of the said *King James the First*, in a Speech to his House of Peers, he expressed himself, that he intended not to derogate from, or Infringe any of the Liberties or Priveledges of their House, but rather to fortifie and strengthen them; for never any King had done so

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much for the Nobility of *England* as he had done, and ever would be ready to do, and whatever he should say, or deliver to them, as his thought, yet when he had said what he thought, he would afterwards freely leave the judgment thereof wholly to their House; he knew they would do nothing, but what the like had been done before, and prayed them not to be jealous, that he would abridg them of any thing that had been used; for whatsoever Presidents in good times of Government could warrant, he would allow, acknowledging them to be the Supreme Court of Justice, wherein he was ever present by Representation.

But his said Sacred Majesty then inferred, that the Priviledges of the Commons, which they claimed to be their natural Birthrights, were but the favours of former Kings. Against which the Commons then protested, That the Liberties, &c. of Parliament, are the Ancient and undoubted Birthright and Inheritance of the Subjects of *England*; that the urgent Affairs concerning the Kings State, and defence of the Realm, and the Church of *England*, and the Maintenance and making of Laws, and redress of Mischiefs within the Realm, are proper matter for Debate in Parliament, and that this Debate ought to be free, &c. And no Member to be Imprisoned (other than by censure of the House it self) for debating Parliament business; and if any Member is complained of for any thing done or said in Parliament, the same is to be shewed the King by assent of the Commons, before the King is to give credence to any private Information. In Counsel afterwards this King expressed, that he never meant to deny the House of Commons any Lawful Priviledge they had enjoyed by any Law or Statute, by Custom, or uncontrolled and lawful President. In the Protestation some words (*viz. arduis Regni*) are cunningly mentioned, but the word (*quibusdam*) which restraineth the generality to such particular Cases, as his Majesty pleaseth to consult with them upon, was purposely omitted. Now as to what he is pleased to consult with them upon, it is Customary for the King, at the first opening of every Parliament, in a short Speech, to declare to the Three Estates, the certain Occasions urged him to convene them: on which or the particular Heads thereof, the Lord Chancellor, or Lord Keeper of the Great Seal of *England*, for the time being, more Copiously enlargeth; observing those measures the King his Master prescribeth him, tho in fewer words, for non-observance whereof, and for their omission of the word (*quibusdam*) in their said protestation, the said Learned King *James* the First, did actually take the said protestation out of the Journal Book *propria sua manu*; and on the sixth of *January* Dissolved the Parliament; and some eminent Members of the Parliament were committed to the Tower; and others to other Prisons; and some sent into *Ireland*, rather for Punishment than to Enquire (as was pretended) of sundry Matters

Matters concerning his Majesties Service. There then appeared some Men of Antimonarchial Spirits, and that insisted too highly upon Priviledges, little regarding or rightly considering the measures chalked out to them by the Kings Writ, by which they are summoned and impowered to sit in Parliament. The Members before spoken of remembred not what the said King *James* the First in time before said, the Parliament is a thing composed of a Head and a Body, the Monarchy and the Three Estates, it was first a Monarchy, then after a Parliament, that there were no Parliaments but in Monarchical Governments, for in *Venice*, the *Netherlands*, and other free Governments there are none; the Head is to call the Body together; and for the Clergy, the Bishops are the Chief; for Shires their Knights; for Towns and Cities their Burgesles and Citizens; these are to treat of the certain difficult Matters, and to Counsel their King with their best advice to make Laws for the Commonweale; and the Lower House is also to Petition their King, and acquaint him with their Grievances, and not to meddle with their Kings Prerogative, they are to offer supply for his necessity, and he is to distribute in recompence thereof Justice and Mercy. If this Head and Body, Monarch and Three Estates, be at unity within themselves, they then make *le tres hault Court de Parliament*, the Supreme, and in the superlative Degree, the highest Court of Parliament. Their Priviledges are so great, that (whilst that Court is at unity within it self) I know not what it may not do; and (as directed by *Mr. Plowden*) I shall not think, much less speak any thing dishonourable of that Court, but as in Arithmetick Three Cyphers with a Figure of One prefixed, makes the compleat Number of one Thousand; so take away the Number (or rather the beginning of Number) of One, and the Three Cyphers that remain signifie nothing. For when the Parliament is stiled the Supreme Court, it must be understood properly of the King sitting in the House of Peers in Person, and improperly of the Lords or Commons without him; the Consultive, Directive, or Deliberative Power is in the House of Peers, the Performing and Consenting Power is in the House of Commons, but the Legislative Power lodgeth in the Person of the King, yet altogether (that is to say) King, Lords, and Commons make Parliamentary binding Laws and Statutes, 7. H. 7. 14. it is said that there are many Statutes indicted, *quod dominus Rex Statuit*, that our Lord the King hath ordained, yet if they are in the Parliament Roul, and have always been allowed as Statutes, it shall be intended that they were made by Authority of Parliament. But if a Statute be made thus, the King with the Assent of the Lords, or the King with the Assent of the Commons, It hath been held from about the time of H. 3. to the time of the late Rebellion, not to be good, for all ought to Assent; *Coke* 8. 20, 21. so that as Sir *John Fortescue* saith, Fol. 40. a. b. Statutes are made in *England*, not only by

the Princes pleasure (tho he saith not that in *England* they can be made without the Princes pleasure or Royal Assent) but by and with the Assent of the whole Realm in Parliament assembled by their Representatives: so that of necessity they must procure the Wealth of the People, and in no wise tend to their hindrance, which well they cannot do, seeing they are ordained not by the device of one Man alone, or of a Hundred wise Counselors only, but of more than three Hundred chosen Men, much agreeing with the number of the Ancient Senators of *Rome*: and if it chance, these Statutes (being devised with such great Solemnity and Wit) not to fall out so effectually, as the intent of the makers did wish, they may quickly be Reformed in a Subsequent Parliament; but not without the Assent of all the Powers, by whose Authority they were first passed and devised.

C H A P. II.

Sheweth, how King Charles the First found things at his first coming to these Crowns, and there is also said something as to the Learning of the Customs, the chief Maintenance of the Crown in his time.

I Further observe, that at the first coming to the Crown of the said King *Charles* the First, his first Parliament in the first Year of his Reign, or the Major part of them, met not without being armed with some prejudice to his said Sacred Majesty King *Charles* the First, for therein the Act for Tonnage and Poundage passed not which in the first Parliaments from the time of *H. 7.* to this time, (as it were accustomedly and of course) had been granted and passed to all his Royal Ancestors, Kings, and Queens of this Realm. The sudden Dissolution of that Parliament, preventing the Act of Subsidies he was forced to draw from his People, by borrowing of Persons able to lend, such competent Sums of Money, as might discharge his present Occasions; and to that purpose, directed Letters to the Lord Lieutenant of Counties, to return the Names of Persons able to lend, omitting the Names of Noble Men and Clergy-men, and (the Names returned) the Comptroler of the Kings Household by the Councils order, issued forth Letters in the Kings Name, under the Privy Seal, to the several Persons returned for Loane of Money. Though this was not the first time that ever such Loanes under the Privy Seal were had upon certain emergent Occasions, and in cases of urgent necessity

cessity by failer of Parliamentary Supplies. Yet in the Parliament next after, *in tertio Caroli primi*, many of the Members took the occasion to strive as to their insisting upon their Priviledges to outdo one another. Then the modesty of the House of Commons (which was very great in former times) was by them forgotten, and they began to arrogate more Power than what the Kings Writ gave them; heretofore they evaded matters of State as much as they could, and when their Advice hath been desired, they have humbly desired not to be put to consult of things of which they had no knowledge; and at other times they have humbly desired, that the King would be advised in matters of War or Peace, by the Lords, being of more Experience than themselves in such Affairs; and have used modestly to excuse themselves, as too weak to consult in so weighty Matters. But then several Speeches and Resolves made by divers Champions of the House of Commons (who were no friends to Prerogative) put the Lords and Commons then Assembled in Parliament, upon their Petition concerning divers Rights and Liberties of the Subjects; to which the late Kings answer was, That he willed that right be done according to the Laws and Customs of the Realm, and that the Statutes be put in due Execution, that his Subjects may have no cause to complain of any Wrong or Oppressions contrary to their just Rights and Liberties, to the Preservation whereof, he held himself in Conscience as well obliged as of his Prerogative. But this answer not giving satisfaction, he was again Petitioned unto, that he would give a full and satisfactory answer to their Petition in full Parliament, whereupon the late King in Person, after their Petition was read by the Clerk of the Crown, the Kings answer thereunto was read by the Clerk of the Parliament in these words, *Soit droit fait come est desire*, Let right be done as is desired. And on the last day of the Session of that Parliament, he declared his dislike of a Remonstrance given him by the House of Commons, and since he was certainly informed of a second Remonstrance was preparing to take away his profit of Tonnage and Poundage, alledging that he had given away his right thereunto by his Answer to their Petition: that therefore he was forced to put an end to that Session before he meant it, being unwilling to receive any more Remonstrances to which he must give a harsh answer. And as for Tonnage and Poundage, it was a thing he could not want, and never meant by him to be granted. As single Persons usually quarrel before they fight, so now began there to be a kind of Logomachy, a contention in Words, Speeches, Remonstrances, and Declarations began to be cryed up and down the Streets, all which in time after ushered in the late War. It will be material for a plainer discovery of the injury intended to his said most excellent Majesty in the said second Remonstrance, to take away his Profit of Tonnage and Poundage, to speak something

Something, for the explanation of this learning of the Customs, from our Books of Law; from which it is observable, That the Duties payable to the King out of Merchandizes exported or imported, are of three kinds: 1. Customs, 2. Subsidies, 3. Imposts or Impositions, all which admit of these Definitions and Divisions.

1. Customs are Duties certain and perpetual, payable to the King as the Inheritance of his Crown, for Merchandizes imported and exported to, and from parts over and beyond the Seas, from one Realm to another Realm. These Duties called Customs are divided into three kinds: 1. *Magna & antiqua Custuma*, 2. *Parva & nova Custuma*, 3. *Prisage and Butlerage*, and in all these the Crown hath a certain and perpetual Inheritance. 1. The great and ancient Custome, is payable out of native or homebred Commodities of three sorts, to wit, Wool, Woollfells, and Hides, and is in certainty, 6 s. 8 d. for a Sack of Wool, for 300. of Woollfells 6 s. 8 d. for a Last of Hides, 13 s. 4 d. 1 f. And every Sack of Wool containeth 26 Stone, and every Stone 14 Pounds. And the Last of Hides is 20 Dickar, and every Dickar is 10 Hides; this is the Ancient Custom payable by every Merchant Denizon for the exportation of the Commodities aforesaid, but the Merchant Strangers payed a third part more, for remission of Prizes, and other Priviledges to them granted by the Charter of 31. Ed. 1. Dyer. 1 Eliz. 165. b. 1.

2. The new and petit Custom is 3 d. of the Pound payable by Merchant Strangers only, for all Commodities by them imported, and exported, as is expressed in the said Charter of 31. Ed. 1.

3. Prisage is a Custom taken of Wines of all sorts, and is in certainty, 2 Tuns of Wine out of every Ship laden with 20 Tun or more; the one Tun to be taken before the Mast of the Ship, and the other behind the Mast, and because that this Custom is part of the Merchandizes imported and taken *in specie*, it is called Prizeage; and this Custom of Prizeage, was payable in *England* by all Merchants Denizons and Aliens, before the said Charter of 31 Ed. 1. for which the King remitted to all Merchant strangers all Prizes. And in the same Charter it is expressed, that in consideration thereof, the Merchants strangers had granted to pay to the King and his Heirs by name of Custom 2 s. of every Tun of Wine that they shall bring, or cause to be brought into the Kingdom, &c. which Custom of 2 s. of the Tun is now in *England* called Butlerage, and payable there by all Merchant strangers. See the *Stat. de Extra & ad Scaccar.* 15th. Ed. 2. And this is the nature of these several Duties for the Original of these Customs.

1. The

1. The said Ancient and grand Custom is parcel of the Ancient Inheritance of the Crown, and as Ancient as the Crown it self, *Inhæret sceptro*; and is due of common Right and by Prescription, -and not by grant or benevolence of Merchants, or by Act of Parliament *Dyer 1. Eliz. 165. b.* But because that every thing that is due of common Right, and by Prescription, ought to have a reasonable cause of beginning, it is to be Noted and Observed, that this Custom was payed to the Crown for four principle Causes and Reasons.

1. For the better knowledg of such as depart the Realm, and of what Commodities are carried out of the Realm. See *Dyer 165. b.* and the Statute of 18. *Ed. 3. ca. 3.*

2. For the Interest that the King hath in the Sea, and in the Braches and Arms of it, 22. *Aff. Pl. 93. 15. Eliz. Dyer 326. b.* the Sea is of the Ligeance of the King, as of his Crown, and is his proper Inheritance, *Davyes rep. 56. a.*

3. Because the King is Guardian of all the Ports and Havens of the Realm, which are *Ostia* or *januæ Regni*, and the King is *Custos totius Regni*.

4. For Waftage and Protection of Merchants upon the Sea against the Enemies of the Realm, and against Pirates who are the common Enemies of all Nations.

2. The Pettit and new Custom payable by Merchant strangers only, had its beginning in the time of *Ed. 1.* for before this time the duties payable by Merchant strangers for all Commodities imported, (except Wines,) and for all native Commodities exported (except the said staple wares of Wool, Woolfells, and Hides) were uncertain. "For the King by his Prerogative took to his use, and at his own price, so many, and such portions of their Merchandizes, as he had need of by name of Prizes, which were always uncertain. But King *Ed. 1.* by his said Charter dated the 1 of *Febr.* in the 31 year of his Reign, in favour of Merchant strangers, and to invite and occasion their Commerce and Trade, remitted to them all Prizes, and granted to them divers other Priviledges. In consideration whereof, all and singular the said Merchant strangers for themselves, and others of the same parts with them, and every of them beyond the Seas, unanimously agreed to pay to the King and his Heirs 3 *d.* of the Pound for all Merchandizes imported or exported by them, as is expressed more particularly in the said Charter, which is to be found in the Office of the Chief Remembrancer in the Exchequer. And this Charter of *Ed. 1.* in all Points was ratified and confirmed by Act of Parliament, 27 *Ed. 3. ca. 26.* and this is the Original of Pettit Custom, so called because this Pettit Custom for Forreign Commodities, was accepted by the King, when but a small quantity of such Forreign Wares

Wares was imported into *England*, for in the time of *Ed. 1.* and after that in the time of *Ed. 3.* the native Commodities of *England* exported, were of greater quantity and value by two parts of three at the least, than the Foreign Merchandizes imported; but now it is quite contrary: for at this day the Outgate is less than the Ingate, the Foreign Mercery and Grocery Wares, &c. imported, are of far greater quantity and value than our Native Commodities exported.

3. Prifage of Wines, is also a Custom due by Prescription, and parcel of the Ancient Inheritance of the Crown, and that the King hath Inheritance in the Prifage of Wines, appeareth by the Charters granted to the Citizens of *London*, and to those of the cinque Ports to be discharged of Prifage in all Ports for ever. See the Stat. of 1 *H. 8. ca. 5.* And the Duke of *Ormond* hath an Estate of Inheritance in the Prifage of Wines in the Kingdom of *Ireland* by grant of the King; and this is the Nature, Original and Difference, of the Ancient duties payable for Merchandizes, which are properly called Customs, and are the Inheritance of the Crown.

2. Subsidies also are duties payable for Merchandizes exported and imported, but are granted by Act of Parliament, *Dyer. 31 H. 8. 43. b. 1. Mar. Dyer 92. a.* and are of three divers sorts, according to the diversity of the Commodities, and are called.

1st. Aides or Subsidies, being granted out of the said Native Commodities, (to wit) Wool, Woolfells, and Hides; over and above the Ancient Custom aforesaid.

2^{dly}, Tonnage granted out of Wines of all sorts, over and above the Prifage, and the said Custom of 2 s. on the Tun granted by the Charter of 31 *Ed. 1.* now called Butlerage.

3^{dly}, Poundage granted out of all Commodities imported and exported (except Wines, and the staple Commodities aforesaid) and payable by the Merchant strangers, over and above the said Pettit Custom.

1. These Aides or Subsidies, were not of a certain quantity or continuance, till to the time of *Ed. 6.* to which King in the first Parliament of his Reign was granted a Subsidy of 33 s. 4 d. of every Sack of Wool, 33 s. 4 d. for every 240. Woolfells, and 3 l. 6 s. 8 d. for every Last of Hides exported by Denizons for every Sack of Wooll exported by Aliens, 3 l. 6 s. 8 d. and for every 240. Woolfells, 3 l. 6 s. 8 d. and for every Last of Hides, 3 l. 13 s. 4 d. And this Subsidy was granted to continue during the Life Natural of that King. And after his demise or death, all Kings and Queens (except King *Charles the First*) have had the like grants for Life.

2. Tonnage,

2. Tonnage which is a Subsidy out of Wines of all sorts, was first granted by Parliament, 5th. R. 2. where 2*s*. of every Tun of Wine, to be imported into *England*, was granted to the King for Two years, and that was for Maintenance of a Fleet upon the Sea to suppress the Pyrates. But after by Parliament 3. Ed. 4. Tonnage was granted to this King for Term of his Natural Life in this manner, (*viz.*) 3*s*. for every Tun of Wines, and (besides those 3*s*.) for every Tun of Sweet Wines 3*s*. more: see the Statute of 12th. Ed. 4. ca. 3. And this Subsidy was after granted to H. 8. and Ed. 6th. with this Addition in time of Ed. 6th. that of every Awn of Rhenish Wine also 1*s*. shall be paid, and after the time of Ed. 6th. this Subsidy of Tonnage was as of course Granted in *England*, by several Acts of Parliament to Queen Mary, Queen Elizabeth, and King James, during their several Natural Lives.

3. Poundage, which is a Subsidy granted out of all Commodities exported and imported, except Wines, and the Ancient staple Wares, as above, and payable by all Merchants Denizens and Aliens is the 20th. part of the value of Merchandizes, to wit, 12*d*. of the Pound, and was first Granted by Parliament in *England*, 31. H. 6. during the Life of this King, which Grant was immediately resumed. But after that 3. Ed. 4. this Subsidy of Poundage was granted to the said King: See the Stat. 12. Ed. 4. ca. 3. and after the same Subsidy was Granted to H. 8. during his Life; and the same Grant was renewed to Ed. 6. Queen Mary, Queen Elizabeth, and King James, during their several Lives, by several Acts of Parliament.

3^{ly}, Imposts or Impositions, are the Third kind of Duties payable for Merchandizes, and are sometimes Rated and assessed by Parliament, and then are in nature of Subsidies, and are sometimes imposed by Prerogative Royal to support the necessary Charges of the Crown; and then *Nil magis justum est, quam quod necessarium est*: nothing is more just, than what is necessary as an Ancient Senator of *Rome* was wont to say.

The Impost upon Wines in *Ireland* was first assessed by Parliaments, and limited to be paid for a certain time of Years, which being expired, that is now continued there by Prerogative of the King, *Davyes rep.* 12. a.

It is to be observed from what hath been said, that Anciently the Outgate was more than the Ingate; and that since or of latter times, it is otherwise: that the Merchandizes imported, do far surmount the value and quantity of our Native Commodities exported; which caused the aforesaid Pettit and new Custom, to exceed the said grand and Ancient Custom, for by continuance of time, all the Kings Dominions were much better Peopled; and are more Populous at home, and in all his Foreign Plantations of latter time acquired, and by reason thereof our Lands and the Annual Rents thereof

thereof, within the Kings said Dominions are much improved; and likewise trade by Sea is also much improved; as is easily made manifest by the great disproportion of the Rent reserved to be paid for the Customs by the Farmours thereof when last let to Farms, and the Rent paid for the same (to go no higher) in the times of King *James* and Queen *Elizabeth*; and that wise King *Ed. 1.* by his said Charter remitted Prizes, and by Priviledges Granted to Aliens, encouraged them to the more free Trade and Commerce; and by consequence there was in after Ages the greater reason for an improvement of the Customs, by the best, usual, and accustomed way of Granting Subsidies for the Lives of our Kings Successively one after another by Act of Parliament. Seeing Subsidies themselves are no more than an Improvement (in the Improvement of time) of the Ancient Customs of common Right, and by Prescription, belonging to the King his Heirs and Successors; and that we may Collect from what is aforesaid, that (if not so granted) they may and have been imposed by Prerogative Royal, for the Four principal Causes and Reasons aforesaid, and to support the necessary Charges of the Crown. The Words of the King when he Passeth the Bill of Subsidies are observable, which are these, *Le Roy remercie ses Loyal Subjects, accept leur benevolence, & aussi ainsi le veult*, The King thanks his Loyal Subjects, accepts of their good will, and also will have it; which last Words, make the Act of Subsidy a Law, and so binds every Man to the payment of it, insomuch, that the Two Houses of Parliament, joint or separate, cannot impose a Penny upon the Subject without the King, nor can the Freeholders (whom they serve) invest any such power in them: But for the Sovereign Prince himself, there are many Examples Old and New, how he hath not only raised *pecuniary sums in specie*, but layed Impositions upon Commodities by meer Royal Authority; I shall instance only in Two, *viz.* in Queen *Mary*, and Queen *Elizabeth*, the first laid an Imposition upon Cloth and Gascon Wines, the other upon sweet Wines and Alloms, without Parliament. Therefore those Parliaments of the First and Third years of King *Charles* the First, and the Members of the same, that so highly insisted upon their Priviledges, their *meum* and *tuum*, Liberties, &c. (and that would have been unwilling to have abated one of their Tennants of any their Manours or Farms a small matter of their Rents, though it may be credited for truth, that Twenty Acres of their Lands then let at 20*l.* per ann. might in the time of *Ed. 1.* be let for 20*s.* per ann. were very injurious to the said King, in that they (contrary to their bounden Duty) neglected to Grant to him, the usually Granted and Passed Act for Tonnage and Poundage; being the chief Maintenance of the Crown in his time. The first Parliaments of King *Charles* the First being Dissolved, in a short time after, by Order of
the

the said King and Council, the then Farmors of the Customs were Commanded to receive the Customs, and all Duties payable for the same, as in the time of his Royal Ancestor King *James* the First, and the first Seventeen years of the said King *Charles* the First, were times of great Plenty, then Trade was great, and good; and the Farmors of the Customs did very much augment their Estates, insomuch that none of them did refuse to Obey the said Order. But in time next subsequent, they were all great Sufferers, for the fatal Parliament called in *November* 1640. wanted Money for the work they had cut out, and after they had Sat a few Months, they questioned the Farmers for Intermeddling, Farming, and Receiving the Customs and Imposts, contrary (as they said) to Law, contrary to a Declaration and Vote, 3^d. *Car.* and contrary to the Liberty of the Subject; they being Threatned and Timorous, tho there was no Law to prohibit the Receipt, for Farming of the Customs, nor any Vote Passed 3^d. *Car. primi* against it, suddenly submitted to a Composition of 165000*l.* and whilst, or a small time before these things were agitating, the Farmers contracted for a new Farm of the Customs with his late Majesty for Four years, from *Christmass* 1640. and *Lady day* 1641. upon the which Farm and the Assignments of the Rents for the same the Sum of 200000*l.* was Advanced for his said Majesty King *Charles* the First, (by which the said King had made some provisions for War, which the said pretended Parliament recovered, and made great use of against himself) and the next day the said Composition was reported, the Contract for the new Farm was Voted Void, the Assignments upon the Rents were made Null, instead of Farmers many of them were made Commissioners; and the said Parliament (resolving not to spare this Revenue) Commanded them (*non obstante* the Law lately passed by themselves to run into the same Crime for which they had lately Punished them) to receive the Customs which with the said Composition paid by them in the space of Two Months, was made use of to raise and pay the pretended Parliaments Army: which said great Sums of 165000*l.* and 200000*l.* (which the said Farmers may be said to have been Fined, and to have advanced for his said Majesty King *Charles* the First) reduced all of them to low Estates; and some of them were Prisoners for near Twenty years before his late Majesties most happy Restauration; who afterwards in the 16*th*. year of his Reign, was graciously pleased to take into Consideration the great sufferings of the said old unhappy Farmers of his late Majesties Customs, and out of his special Grace and Favour, by his Letters, Pattents under the Great Seal of *England*, and by Privy Seal, and Tallyes thereupon Struck, Leavyed, and Allowed of, Granted unto Sir *John Jacob* and other the said Farmers 200000*l.* for the discharging and satisfying of the rest and residue of the great Debts by them

Contracted for his said Majesty King *Charles* the First, and for their reimbursement and satisfaction of such Sums of Money as they had lent to, or paid for the said King *Charles* the First, to be Received and Deducted by them out of their Rents payable to his late Majesty out of the Farm of the Customs, then, or lately before, made to Sir *John Wolstenholme*, Sir *John Jacob*, Sir *Nicholas Crisp*, and Sir *John Shaw* in Five years, being the Term of their then said Farm, which they, or some others of them, or on their behalfs accordingly Received, and Disposed of in payment and satisfaction of the said Debts, (which if his late Majesty had not been pleased to do) the said Farmers, and many of their Creditors also, had been utterly Ruined and undone.

CHAP. III.

Sheweth how the late Rebellion broke out, and something is said of the great Advantages the Rebels had, with what Advantages only the Loyal Party had.

NOW in time King *Charles* the First had lately left *White-hall*, because of the rude Insolency of Tumults, backed and abetted by those intended nothing less than confusion upon Church and State: nothing in the World had more of horreur than these Tumults, Enormous and Detestable were their outrages, and no means could take place for their Suppression; so that (to Redeem his Royal Person and Conscience from violence) the said King withdrew himself, hoping thereby to give time both for the Ebbing of their Tumultuous fury, and others their Abettors regaining some degrees of modesty and more sober sense. But it is a thing Common to Men High and Low, Noble and Ignoble, of all Qualities and Conditions whatsoever, that when their Adversities approach, they lose chiefly that Reason and Wisdom, with the which they might have hindred or avoided the ills that happen: and it is common to Men and Kingdoms that draw towards their destinies, that when their ill Fortunes comes, it blinds their Eyes that they cannot discern it, and binds their Hands that they cannot help it, making them Instruments against themselves in the Execution of their mishaps. His said Majesty King *Charles* the First was brought into great Streights, he meant well, was much pleased in his Parliament, and thinking to have preserved the Love of his Subjects thereby, he was not so Tenacious as he ought to have been;

been; but cared not to lessen himself in the greatest points of his wonted Prerogative; thinking he might have been no looser, but that he might have gained a Recompence in his Subjects Affections; he never bare any touch of Conscience with greater regret, than that Matter related to the Death of that Noble, Learned, and Loyal Earl of *Strafford*, he passed the Bill for the Triennial Parliaments, and withal settled that Parliament during the pleasure of the Two Houses, then Mr. *Lowry*, one of the Burgesses for the Town of *Cambridge*, writ word to his Wife for Newse, that the King had Passed an Act for a Triennial Parliament every year; the *Fishmonger* spake truer than he was aware of, for such construction was made thereof by those who intended Ingratefully and Wickedly to take Advantage of his large Concessions, that the one with the other amounted to as much as to the Perpetuating that Parliament. Whereas he hoped by this Act of high Confidence to have shut out, and locked the Door upon all present Jealousies and future Mistakes; they intended no less, than to shut their King out of Doors, and by Colour thereof to Rob and Denude him of all his Royal Power both in Church and State. Then the Press and the Pulpit joyned to make the King Odious, and all Artifices were used to raise Money for the Raising and Maintenance of their Armies. After a Royal Subsidy of 400000*l.* they next had Poll Money, then after they hedged in an incredible Sum by way of free Loanes and Contributions upon the Publick Faith, then the *Irish* Adventures for the Sale of Lands, and the general Collection for the relief of the Distressed Protestants in *Ireland*, brought in vast Sums of Money, whereof the Twentieth part was not employed to the right use; then they had an Imposition upon a Weekly Meal, and a Loane from the City after the rate of five Subsidies, besides the Five and twentieth part; then there was an Assessment for bringing in the *Scots*, besides several Weekly Assessments for their several Armies; then they had the benefit of Kings, Queens, and Princes Revenues; Sequestrations, and Plunder by Committees, and Compositions with Delinquents (as they were pleased to call them) did arise to such Sums as passed all understanding; besides the Excise, Fortification Money, and vast Sums made by Sale of Bishops, Deans, and Chapters Lands: to be short, they Assumed to themselves all the Regalias of the Crown, they Seized upon Sword, Great Seal, and Sovereignty, upon the Customs, the Militia, and all the marks of Majesty, nay they did Arrogate to themselves the Legislative and Supreme Power, and they wanted not Commissioners of the Great Seal, Judges, Justices, Publicans, and all Officers for all Offices whatsoever. That for the greatest part of them, forsook their good Old Master, (as *Demas* is said to have forsaken *St. Paul*) to embrace this present World. They wanted not other mighty Advantages, for they had all the Tenable places, and Towns of Strength,

Strength, both by Sea and Land, they had all the Navy Royal, they had the Tower of *London*, with all the Ammunition and Arms of the Crown, and one Advantage they had, exceeded all the rest, they had the City of *London*, which may be called the great Magazine of Men and Money, where there is a ready supply of all things, that may Cloath, and make Men Gay, and Gallant, to put them in Heart and Resolution. We with the said King, had only this Advantage, that we had the Word of God, and the Laws of the Land for our Justification, together with the great Tye and Bond of our Allegiance; all which required our Obedience to the said Kings just Commands; but to none other without him, or against him, in the Point of raising Arms, *Virgilii Aeneid. jamque faces & saxa volant, furor Arma ministrat.*

CHAP. IV.

Sheweth, how the King, the Loyal Party, and the Law suffered Violence.

GRIEVOUS were the various Effects, and sad Events of the late Civil War; Force was repelled with Force, and the Publick Polemical Sword, aggregate and made up of all the Ammunition and Arms, and Military Strength of the Three Kingdoms (the just Indubitable, and Inalienable Right of King *Charles* the First in all his Dominions by vertue of his Royal Seigniorie) was put into the Hands of the People, for the Protection and Security of those then at *Westminster* from the Law, who against Law Ruled not, but rather Overruled their fellow Subjects, at, and after their own Wills and Pleasures, and did cut large Thongs out of others Hides, to alter the Government in Church and State, for no other reason, but that they themselves could not be safe under the same; they could not be Happy, unless King *Charles* the First were Miserable; they could not enjoy their Lives, Peace, and Liberties; but they must first destroy his Friends, and afterwards in cold Blood Barbarously Murder him. Imparallel'd and unheard of Cruelty! Monstrous Impudence and Impiety! Killed their King? nay, their Good and Godly King. It went not against their Consciences, because he made a Conscience to Deny them, what according to good Conscience he could not

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Grant them. I remember in time before the late War, above Forty years since, in an old Obsolete Author I met with this passage, (*Certant hæc duo plerumque invicem inter se, Rex & populus, quorum si vicerit unus, personam induit tyranni; si vincitur, tot millia tyrannorum, quot capitum nascuntur; Crudelior autem semper est tyrannis multorum, quam unius.*) which Englished is, That these Two (that is to say) the King and People do oftentimes Struggle, are in Conflict and Strife between themselves; of whom, if one (that is to say) the King, do overcome, then he becomes a Tyrant, but if he be overcome, thence proceed, rise up, or take beginning to be, so many Thousand Tyrants, as there be Heads of Rebels, or of single Individual Persons engaged in the Rebellion, and concludes, that more Cruel is the Tyranny of many than of one. The whole truth of the Conclusion, was lately seen in the Tyranny of a company of Men sitting at *Westminster*, called Lords and Commons, who Arbitrarily Reigned and Ruled over their fellow Subjects, according to their Wills and Pleasures, as if the Issue of the Fightings of their Armies, had been centured only in the making of the People of the Kingdom Slaves. Then followed the contempt and Oppression of the Clergy, and sacrilegious Invasions were made upon the Rights of the Church, and Men of the Church, injurious Diminutions and Persecutions of the Loyal Laiety by Sequestrations, Decimations, and otherwise ensued, whereof we of the Loyal Party were not only Witnesses and Spectators, but therein we were fellow Sufferers. Now the Writs of the King suffered Violence, of which Mr. *Fitzberbert* in his Preface to his *Natura Brevium*, saith, that they be the Foundations whereupon the whole Law doth depend; of the which Writs and Processes, as be appointed in the Law; it is said in *St. Jermin*, in his Book Written by way of Dialogue, called *Doctor and Student*, Fol. 64. a. That the King as Sovereign and Fountain of the Law, is bounden of Justice to Grant them to every Person that will Complain, be his Surmise true, or false. Yet in stead of *Carolus Secundus Dei Gratia, &c. Vicecomiti, &c.* was used, The Keepers of the Liberties of England, by Authority of Parliament, To the Sheriff of, &c. But those who had built this Babel, by their Divisions and Jealousies, one had of another, were in time brought to strange Confusions. The Writs were to run no longer in the Name of the Keepers, &c. But all Writs and Process were issued forth in the Name of *Oliver* their General. The Independent, though the Younger, now prevailed against the Presbyterian the Elder Brother, whath the Elder had hunted after, the Younger now caught for himself. And now also it may be observed, that a House of Commons singly Assumed to themselves the Title of, and were stiled the Parliament of England; though his Sacred Majesty King *Charles* the First had before truly told them, in his Speech to them 3. Car. that none of the Houses

Houses of Parliament joint or Separate, had any Power either to Make or Declare a Law without his Consent.

CHAP. V.

Sheweth about what time the Kings Writs were first framed for the induction of the Commons into the Parliaments of England.

FROM the *Norman* Conquest untill some time in the Reign of *H. 3.* Parliaments were holden by the King and his Barons Spiritual and Temporal; in whose days (it is thought) the Kings Writ for Election of Knights, &c. was first framed, and that the Commons were reduced to a House by the Advice of the Bishops to the King in the heat of the Barons Wars. It was thought expedient then to frame a Writ for their Induction, that they might allay and lessen the Pride and Power of the Peers, who had waged War so many years against the Crown. However lest they should arrogate too much Authority to themselves, they never could so much as exhibit an Oath, nor impose a Fine, or inflict Punishment upon any but their own Members, until the time of the late Usurpers, when they were grown to that height of Impudence, that the King himself, and Lords Spiritual and Temporal were Excluded by them: of whom (as well before the *Norman* Conquest as since) the Ancient Parliaments of *England* consisted only, without them. For it is true the People were wrought under by the Sword of the first *William* and his followers to a Subjected Vassallage, Division and Power had Mastered them, none of their old Nobility and Heads were left either of Credit or Fortunes, what he Detained not in Providence (as the Demains of the Crown) or reserved in Piety (as for the Maintenance of the Church) he parted and divided amongst those Strangers that Sailed along with him in the same Bark of his Adventure; leaving the Natives for the most part (as may be seen by his Survey called *Domesday Book*, now in the Exchequer) in no better a condition than Villenage. To supply his Occasions of Men, Money, or Provisions, he Ordered, that all those who injoyed any fruit of his Conquest, should hold their Lands (proportionably by so many Knights Fees) of the Crown. And permitted them to Enfeoffe their followers with such parts as they pleased of their own Portions: which (to ease their charge)

charge) they did in his and his Sons time. This course provided him the Body of his War, the Money and Provision was by Hidage Assessed on the Common People, at and with the consent of their Lords, who held in all their Seigniories such right of Royalty, that to their vassals (as *Paris* saith) they were *quot domini, tot Tyranni*, and in time provided to the Kings so great a Curb and restraint of Power, that nothing fell into the Care of Majesty after, more than to retrench the force of Aristocracy, that was like in time to strangle the Monarchy. Though others foresaw the Mischief sometimes, yet none attempted the remedy until King *John* whose overhasty undertakings brought in the mentioned broiles of the Barrons Wars: there needed not before this, Care to Advise with the Commons in any Parliamentary or Publick Assemblies, when every Man in *England* by Tenure held himself to his great Lords Will, whose Presence was ever required in their Parliaments, and in whose Assents, his dependant Tennants consent was ever included; from what is aforesaid, the Commons of *England*, or rather they (whom the Commons shall Elect to future Parliaments, and are properly said in Parliament Assembled to be the Representatives of all the Commons of *England*) may take notice, that Anciently was in use only one Writ of Summons to Parliament, by which the King Summoned the Lords Spiritual and Temporal separately to come to his Parliament, at a certain Day and Place appointed in the Kings Writ. And of latter times (with the reasons for the one, and the other) there hath been an Additional Writ framed which is sent to every Sheriff of *England* and *Wales*, for Election of Knights, &c. for the Parliament in the Kings Name; and when sent it is called the Kings Writ, and is directed to his Subordinate Officer the Kings Sheriff. For the truth is, the King by his Writ, giveth the very Essence and Form to the Parliament: which is to be Summoned when he pleaseth, to be Adjourned, Prorogued, and Dissolved, when he pleaseth. And in all good times of Government (before and since the Conquest) it was ever in the Kings power, and was, and is his Priviledge, Royal Prerogative, and Regality, to Grant or Deny such Petitions as he pleaseth, and all Acts of former times, and some of latter time were, and are in form of Petitions.

CHAP. VI.

Sheweth the difference between Parliamentary Priviledges, and the Priviledges of the King; and sheweth how at first Kingly Government was constituted by God himself, and that by Gods Law also the Legislative Power, and the Power of the Militia was given to the King; and that in these highest Points of the Kings Prerogative, the Law of England is agreeing with the Law of God, and that God is vindex sui Ordinis, the avenger of his own Ordinance.

THE Speaker of the House of Commons (on the first day of every Parliament) is usually Presented to the King, and (in the Name of the Commons of England) he humbly Prays, his Majesty would be Graciously Pleased to Grant them their Liberties and Priviledges; which is a strong Argument that their Priviledge (their pretended Birthright and Inheritance) floweth only from the Kings Primitive Grace and Favour; and that they would not pray that, *de Gratia*, of Grace, if they had any Colour to claim the same, *de Jure*, of Right. And the renewing of this Petition every Parliament, proves the Grant to be but Temporary. But the late Usurpers pretended they had Priviledge granted to them to sit by the Mentioned Act of Continuance, &c. And therefore all fair Offers from his said Majesty for Publick Good, and for the Preservation of the Government in Church and State, were afterwards interpreted a Breach of Priviledge. Though the soundest Lawyers of that time, were of Opinion, that the said Act of Continuance was Void in it self; in regard that what Grants or Concessions soever the King makes, the Law presupposeth, they are always with this Proviso, *Salvo jure regio, salvo jure Coronæ*; In the 20th. of Rich. the Second, it may be seen in Mr. Howes Chronicle, that a Parliament holden at *Westminster* was Ordained to endure Forty eight days; but it was Abridged, for the King would not tarry there more than Five days, wherein he declared the things pertaining to the Realm, especially such Matters as touched himself, &c. One property of every good Law of Man, is that the Maker exceed not his Authority, which certainly they did that framed that Bill for the Act of Continuance, &c. And Coke 10th. rep. 57. b. it is agreed, that *Parliamentum*,

mentum, testamentum, & arbitramentum, are to be construed according to the intention of the Makers; the said King certainly intended not thereby to Exclude himself, because by the Laws of our Land, it cannot properly be said a Parliament, unless it be consisting of King, Lords, and Commons. And if Kingly Government be constituted by Divine Right, then St. *Jermyn* tells us, that Customs and Statutes are void, that are against the Law of God, and so that Act was null in its own Nature at the very first, and the proposal of it, was Treason in a high degree. Parliamentary Priviledges are but Temporary, and are not in them, till asked by their Speaker *Precario*, and granted by their Sovereign. But Mr. *Plowden*, Fol. 322. *b.* saith, that every Prerogative of the King containeth in it self a Prescription, for it resteth in usage. And Fol. 319. *b.* and 322. *a.* he saith, that the Prerogative of the King may not be said to be *torcius*, that is consonant to reason, and hath been used from time to time, in the time of one King after another, for the Law is not known if not by usage, and usage proveth that it is Law. And Fol. 322. *a.* and 323. he saith, all the Prerogatives mentioned in the Statute of *Prærogativa Regis* made in 17^o. *Ed. 2^{di}*. were in the King by the Common Law, before the said Statute, and many others, and Fol. 318. *a.* he saith, It is a commendable thing for the King to abstain from the extremity of his Prerogative of his special grace in benefit of his Subjects, but withall saith, that the Law doth not force him so to do. And Sir *Ed. Coke* in the First part of his *Institutes*, Fol. 90. *b.* saith, that *Prærogativa* is derived of *præ*, *id est*, *ante*, and *rogare*, that is to ask, or Demand before hand, whereof cometh *Prærogativa*, and is denominated of the most excellent part, because though an Act hath passed both the Houses of the Lords and Commons in Parliament, yet before it be a Law, the Royal Assent must be asked or Demanded, and Obtained, *Bracton li. 1^o*. calleth it *libertatem*, in another place *privilegium Regis*. *Britton* Fol. 27. calleth it *droit le Roy*, the Right of the King: the Register of the Writs calleth it, *jus regium Corona*, the Royal or Regal Right of the Crown. And Mr. *Stanford* in *Prærog.* Fol. 5. *a. b.* saith, *Prærogativa*, is as much to say, as a Priviledge or Preeminence that one person hath before another, which as it is tolerable in some, so it is most to be permitted and allowed in a Prince, or Sovereign Governour of a Realm, for besides that, he is the most worthyest or excellent Part or Member of the body of the Commonwealth, so is he also (through his good Governance) the preserver, nourisher, and defender of all the People, being the rest of the same body, for which cause the Laws do attribute unto him all Honour, Dignity, Prerogative and Preeminence. It is said, *Coke* 7. 10. *b.* and 11. *a.* That the King is an absolute Prince before his Coronation, which is but a Royal Ceremony, Ornament and Solemnization of the Royal Des-

cent, but no part of the Title, and that *Rex, non est Rex, quia Coronatur, sed Coronatur quia est Rex*, The King is not a King, because he is Crowned, but he is Crowned, because he is a King. And *Coke* 11. 72. a. The King is said to be *sponsus Regni*, and *per annulum*, by a Ring, is said to be espoused to the Realm at his Coronation; which is a great Mark of Sovereignty and Power in the King over his People; for admit the King to be *sponsus*, the Bridegroom, or new Married Man, and the Realm to be *sponsa*, the Bride or new Married Woman at this Solemnity of his Coronation, every Woman is *sub potestate viri sui*, under the Power of her Husband, & *ipse dominabitur ejus*, and he shall Rule or Reign over her by Gods Law: *Gen.* 3. 16. and our Law doth not estrange the Husband of any Interest, Prerogative, or thing that the Wife hath at the time of the intermarriage or after. But as in all Rebellions, so in the late time of Rebellion, the Woman wore the Breeches, as is easily proved by the Money Coined in those times. Also in *Coke* 7. 10. b. The King is said to be *pater patriæ*, the Father of his Country, which is another Mark of his Sovereignty and Supream Power; for at the beginning of Kingdoms, when all the World consisted of a few Households, the Elder or Father of the Family exercised Authority over his Meyney, and did distribute reward or punishment amongst them after his own discretion: all which afore said is agreeing with what the Poet saith, *Jura dant singuli natis, & uxoribus*, every single individual Person gives Laws to his Wife and Children. This was *patria potestas*, Fatherly power, the fountain of *Regia potestas*, Kingly power; and so *Regia potestas* is *legè Naturæ non arbitrio populi*, and so Kingly Authority is by the Law of Nature, not by the Will, Power, or Arbitrement of the People, & *leges Naturæ perfectissimæ sunt, & immutabiles*, and the Laws of Nature are the most perfect, and not to be Altered or Changed. No sooner was there a Household but there was a Sovereign; All regal Authority was then included in the Office of Father. And therefore God Almighty in giving the Fifth Commandment (called the Crown Commandment) *Honour thy Father and thy Mother*, intended the Duty belonging to all Magistrates. Afterwards when Households grew to that greatnes, that they were like to little Commonweales, so that *Abram* out of his own Household could raise an Army of 318, *Gen.* 14. 14. then being not only *patres familias*, but in Title Kings, they were called by a mixt name of both *Patriarchæ*, which signifies Fathers and Kings: at length when by the increase of the World, many Houses and Towns joyned in subjection to some one Sovereign Power; then was *pater* left out, and they were called by that name they now have *ἀρχαί* or *ἀρχαίτες*, Powers or Rulers, and thus we had Magistracy begun by God himself in the very cradle of Nature. So that our Obedience to Princes, is a very material,

terial, great and important Point of Religion; since the Scriptures dictate to us, that the beginning of Kingdoms, was first *lege Naturæ*, after *institutione Dei*, lastly *consensu & voto populi*: for though the *Israelites* demanded a King (1 Sam. 8th.) yet they asked him to be made by *Samuel*, as the mouth of God; and after *Samuel* had told his Power and Prerogatives over them, then (notwithstanding all) they gave their absolute Assent to yield to him (ver. 19, and 20th.) to be their Judge in Peace, and Captain in War. Whence I pray, with me observe that even at the very first settling and constituting Kingly Government, the Legislative Power was given to the King, he was to be their Judge in Peace, and the Militia and Power thereof was then also given to the King, he was to be their Captain in War. Hence it is, that it was said by *Bracton*, cited by *Coke* 7. 11. b. *Est Corona Regis facere justitiam, & tenere pacem, &c.* and again in *Coke* 7. 25. b. that it belongeth only to the King, *sedes percutere, & bellum indicere*; so that to do Justice and preserve the Peace, to put a suspension to War by making a League or Truce, and to proclaim War, is *jus Majestatis, & inter insignia est summa Regis potestas*, amongst all the signally highest Points of the Kings Prerogative; these are only the Rights inherent to the Supream Power of the King; and so you have a perfect harmony between Divinity and Law, and our Law agreeth with the Law of God. And to shew you further wherein it is not dissonant; but doth *quatuor pedibus currere*, run upon all four, and is fully agreeing with the Law of God, mark what *St. Peter* commands, 1 Pet. 2 chap. 13, 14, verses, *Submit your selves to every Ordinance of Man for the Lords sake, whether it be to the King as Supream, or unto Governours, as unto them that are sent by him, for the punishment of evil doers, and for the praise of them that do well*, in which words all Believers both *Jews* and *Gentles*, are dissuaded from Rebellion, and by *St. Peter* are admonished and commanded to be obedient to Authority; for in these words of the Apostle, the Authority of the Magistrate both Supream and Subordinate is fully Established and Justified, not by Humane only, but also by Divine Right; not as a thing brought into the World by the Ambition of Governours, that they may have a (*præesse*) a precedency, or preeminence above others only, but that they should afford their (*prodesse*) too: and be instruments of good and welfare to the whole Community. It is true, Civil Government or Magistracy is called by *St. Peter*, *Mans Ordinance, or humana ordinatio*, the Ordinance of Man. And so it may be said to be, *Subjectively*, as being joyned or born by Man; or *Objectively*, as employed amongst Men; or *Finaliter*, in respect of the End, it is for the Good of all Men. But that Kingly Government may plainly be demonstrated, not only to be *ἐκ τῆς φύσεως τῆς ἀνθρώπου*, the Creature or Creation of Man, but also *ἐκ τῆς θεοῦ*, the Creation

Creation or Creature of God: let us consult again, 1 Sam. 8th. ver. 21, 22. where we have the Prophet *Samuel* rehearsing the words of the People in the Ears of the Lord. And the Lord saying to *Samuel*, in the Imperative Mood altogether, hearken to their Voice, and make them a King. So we have the word of God Almighty himself expressly for the Constituting of Kingly Government. And let St. *Paul* be admitted to comment upon St. *Peter*, who in the 13th. of the *Romans* 1, and 2. saith, *Let every Soul be Subject to the Higher Powers, for there is no Power but of God: the Powers that be are Ordained of God, whosoever therefore resisteth the Power, resisteth the Ordinance of God, and Denounceth no less pain than Damnation to them that resist.* Therefore as St. *Peter* adviseth for the Lords sake, yea! and for our own sakes, we are to submit our selves to every Ordinance of Man. For as St. *Jermin D. and Stud.* 32. saith, Laws made by Man, that hath received Power from God, to make Laws, are made by God. And again, Fol. 131. They that regard not the Kings Laws, resist the Ordinance of God. And as Kingly Government is derived from, so it is Defended and Preserved too by God himself. In time after the late Usurpers had deprived his Sacred Majesty King *Charles* the First, of Wife, Childern, Army, Friends, Freedom and Life, and that their Power seemed to be above all Rule, Order, and Law; then it pleased God to still the rageing of the Sea, and to put a stop or stay to the Madnes of the People; and by his secret Power to direct their Hearts to cry out, and in their extremities (for the Reviving the Laws of the Land both in Church and State) to insist upon the having of a free Parliament, which in Gods time opened the Door for the letting in of his late Sacred Majesty to his most Miraculous and Happy Restauration. God at length shewed the People of this Nation, that King *Charles* the First chose rather to suffer for them, than with them, for he happily might have redeemed himself to some shew of Liberty, if he would, or rather could have consented to enslave us, he might have avoided that ruine that befell him, if he could have been willing to have confirmed many Tyrants over us. He that said *Touch not mine Anointed, and do my Prophets no harm*; certainly (may we say) it is he alone, that by some secret Power, upholds his own Ordinance, against the Violence and Machinations of Rebels, and Thieves to; and from it we may say and acknowledge, (giving the Praise and Glory to God alone for the same) that he is *columnarum columna*, the Pillar that bears up the Pillars; he is *scutorum, scutum*, the Shield of Protection, for the Shields of our Earth. And that plainly appears by those Judgments, wherewith God hath cut off those that have Rebelled, with his own hand from Heaven. *Korah* and his Company (*Numb.* 16th.) for making Head against *Moses* and *Aaron* (those leaders of Gods People) that died not the Common death of all Men, but
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the Earth (as weary of such a burthen) opened her Mouth, and swallowed them up, and they went quick into the Pit. *Absalom*, for Rebelling against his *Patriarcha*, his Father and King, as one that deserved no Favour, either from God in Heaven, or his Deputy on Earth, was hung up between Heaven and Earth (as unworthy of either) and was Strangled by the Hair of his own Head, the Flag of his Ambition was made the Instrument of his Execution. So that God himself may be said to be *vindex sui ordinis*, the avenger of his own Ordinance.

CHAP. VII.

Sheweth that vindictive Justice is also derived from God to the King as Supream, and that all Subordinate Officers derive their Jurisdiction from the King, and through his Mediation from God also, and that herein the Law of England is also agreeing with the Law of God.

NAY, it is said, *Vengeance is mine and I will repay it saith the Lord*; and it is the very Ground and Foundation of all Order and Government, that it is so; for otherwise as Men do Multiply and Increase, natural Love doth decrease, and the Mightiest (as so many Bulls in the Herd) would be most mischievous to the Weaker, and would be always quarrelling about Limits and Rivers, from whence came the words, *Lis* and *Rivales*. And therefore this *vindictive Justice*, is derived also from God himself, to his Vicegerent on Earth the King (as *St. Peter* saith, where before cited) for the punishment of evil doers, and for the praise of them that do well. So that Magistrates are of two sorts, Supream and Subordinate, Subjection is due to both, to the King as Supream, and to the subordinate, such as are Judges, Justices, such as are *missi*, Commissioned Officers, and sent by him that is the King, for as he hath his Authority immediately from God, so they have theirs from him, and through his Mediation from God also. As God hath confirmed the Kings Supremacy, so hath he also ratified his Subordinate Officers deputation, as may be seen, *Exodus* 18. 18. where we have *Jethro* the Father in Law counselling *Moses* his Son in Law, about the Prerequisite qualifications, who they should be, and the business of Judges, what they must

must do; but neither of these without Gods approbation, and therefore by Moses followed then, and by all Kings observed ever since; they were to be able Men, such as feared God, Men of truth, hating Covetousness, such as these were to be placed over the People, to Judge them at all seasons. Hence it is, that *Bracton* (cited by *Stanford*, 54, 55.) saith *Dominus Rex habet Ordinariam jurisdictionem, dignitatem, & potestatem super omnes qui in regno suo sunt, habet enim omnia jura in manu sua, &c.* Our Lord the King hath the Supream Jurisdiction, Dignity, and Power over all the People that are within his Realm; he is said to have all the Laws in his hand which belong to the Crown, he hath also the Material Sword, which extends to the Government of the Realm in War, he is also said to have Justice and Judgment, which are of his Jurisdiction, as within his Jurisdiction only, as he is the Minister and Vicar of God, and is to distribute to every one what is his. He hath also in him, *quæ sunt pacis*, the Powers which are of, or belong to the preservation of Peace, that the People (with the Governance of whom God hath intrusted him) may live quietly and safely in Peace, that one may not Bear, Wound, or evil Intreat another, that one may not by Force and Robbery Steal, or bear away that is another Mans, or one may not Maim or Kill another. He hath also Punishment in his Power, that he may Punish and Correct Offenders, &c. However for the King in Person to Arrest or Commit a Man, or do any Offices of Justice, is *indignum rege*, is beneath the King; Mercy and Honour flow immediately from the King, Judgment and Justice are his too, but these flow from his Ministers. And therefore least there should be a failer of Justice, and because the King himself in Person may not be Judge or sit in Judgment in Treason or Felony, because he is one of the Parties to the Judgment; he may therefore commit his Authority to another, who is to be Judge between him and the Offender. And therefore *Exedit rei publicæ ut Magistratus constituatur*, and to this purpose, *Eligere debet Rex de regno suo, viros sapientes, & timentes deum, &c. & ex illis constituere justiciarios, &c.* Therefore it was thought expedient for the general good of all; that Magistracy should be Constituted and settled. And in this work of Constituting Magistrates, the King (as it is said (*Exod. 18. 22.*) in his own case, and that they might help to bear the burthen with him) is to Elect and Choose out of the Kingdom wise Men, Men fearing God, regarding the Truth, hating Covetousness; and of such to make and create Judges, Justices, Sheriffs, and other his Ministers and Bayliffs, to whom are referred all matters of Controversie, relating either to real or personal Actions; setting forth perspicuously and more fully all the prerequisite good properties he ought to have, and to be indued with all, to whom the King shall commit the Office of a Judge, Justice, &c. *Et sic concordat lex divina non aliquan-*

aliquantulum, sed quamplurimum cum humana, And so the Law of God is not somewhat, or a very little, but very much agreeing with the Law of England, especially in these matters relating to the Royal Priviledges and Rights of the Crown. Now these Royal Rights and Jurisdictions may not be Transferred to Persons or Tenements, or possessed by any private Person, *nisi hoc datam sit ei de super*; unless it be given him from above, (that is to say) from the King. Now *delegatus dicitur, cui causa demittitur terminanda vel exequenda, vices delegantis representans, & in Jurisdictione nihil proprium habens*, he is said to be a delegate to whom Authority is committed to Handle and Determine Matters, being the Representative of him that Delegates him, and yet he hath no propriety in the Jurisdiction, nor can properly call it his own. So it is with Judges, Justices, the Judgments, and the Courts; they are called the Kings Judges, the Kings Justices, the Kings Judgments, and the Courts of our Lord the King. So that *Jurisdictio delegata, non delegari potest, quin potestas Ordinaria remaneat cum ipso Rege*, this Jurisdiction delegated cannot be delegated, but still the Supream Power must remain with the King himself.

C H A P. VIII.

Sheweth that the Subjects of England are bound by their bond of Allegiance to serve the King only in his Wars, and that the King is the Fountain of Honour: and by way of Induction to the same, something is said of a Countee Palatine, Davids worthies, and good old Barzillai the Gileadite.

I N our Books, we read of a Countee *Palatine*, to have divers Royal Franchizes and Priviledges, which were not Granted to other Earls; and that the Doctors of the Imperial Law hold, *Quod solus Princeps, qui est Monarcha & Imperator in Regno suo, ex plenitudine potestatis, potest creare Comitem Palatinum*, according to which Rule the King of England may well Create a Countee *Palatine*, for he is *Monarcha & Imperator in Regno suo*, as is apparent by many Records and Judgments in Parliament. Here we may observe by the way, that when once the King was Invested with Royal Authority, that his workings in his Sphear were Honoured with the

Name of Creation; he was said to Create, as we may say in our own Phrase, Men that are Advanced by the King to some Title of Nobility, or Office of State, are commonly said by him to be Created, and that the Stile of their Pateents, is not only *facimus*, but *creamus*, that (as in Scripture) Kings are Named Gods, *I have said, ye are Gods*. So they may in their Sphear do something resembling the Power of God. And every Countee *Palatine* Created by the King of *England* is Lord of a whole County, and hath in it *Jura Regalia*, which are consistig in Two principal Points, 1st. In Royal Jurisdiction, by reason whereof he hath all the High Courts and Officers of Justice the King hath. And 2^{ly}. In Royal Seigniory, by reason whereof he hath all the Royal Services and Escheats that the King hath. And therefore this County is meerly disjoin'd, and (as it were) Separated from the Crown: as is said in the Case of the *Dutchy Plow*. 215. b. so that no Writ of the King runneth there, unless it be (*Observe*) a Writ of Error, which being the last Resort and Appeal, is only excepted out of all their Charters, 15. *Eliz.* Dyer 321. and 345. and 34. H. 6. 42. and as to Royal Escheates, the Countee *Palatine* hath the Etcheates of Treasons that the King by his Prerogative shall have of Lands holden of all other Lords; but that is to be understood, of Treasons, which were so at the time when the Countee *Palatine* was first Erected, and not of new Treasons by Act of Parliament afterwards 12. *Eliz.* Dyer 288. b. 289. a. and this comes *Palatinus* was so called, *a comitando vel sequendo principem*, and the Persons advanced to this Name or Title of Honour, were *summi proceres & a Rege proximi*, he was to be a Chief Officer and Counsellor in the Pallace of the King; and it is said, he was not only to be a Companion of the Person of the King, but he is to be *comes curarum* also, he is *par extans curis, solo diademete dispar*, and is to Sink and Swim at all times and seasons with his Lord the King, though it be in troubled Waters. So that the King is, and ever was the fountain of Honour; for as it belongeth only to the King of *England* to Make or Coin Money, and that no other person can do the same without special leave or Commandment of the King; and if any presume of his own head to Coin Money. it is Treason. And as he only hath the Priviledge to Coin Money, so he hath the same Prerogative to give a vallew to base Metal by his Impression or Character, as he hath to give a higher Esteem to a mean Person, by imparting the Character of Honour to him, *sic fiet viro, quem Rex honorare desiderat*, *Davyes rep.* 19. a. 25. a. yet the Countees *Palatine* are to take notice what is said also in *Davyes rep.* 66. b. *Comites Palatii regalem habent potestatem in omnibus, salvo dominio Domino Regi, sicut Principi*, Countees *Palatine* have Kingly Power in all things (excepted always

always nevertheless) Lordship, Dominion, and the Power to Rule over them and their Counties to the Lord the King, as their Prince and Sovereign. And they and all the Nobility (either of the more Ancient, or the latter impression) are to know, that no Lord can be Ancienter than the King; for all was of him and came from him at the beginning, *Stanf. prer. 10th. a.* and we have a saying in our Books, that *honor est in honorante non in honorato*, that Honour is in him that doth the Honour, not in him that is Honoured; and amongst many reasons might be given for the same, I shall only presume to mention one, which is, that Persons of Honour should so behave themselves to all Men, that they should not give the least occasion to any Man to think much less to speak Dishonourably of them. In the 2d. Book of *Samuel 23d. chap.* we have a Catalogue of *David's* Worthies, of whom some were more mighty, and had done more signal Services than others of them, and therefore were more Honourable than the others: so we may also see in the same Book of *Samuel*, in the 17th. and 19th. chapters, That *Barzillai* the *Gileadite* of *Rogelim*, that (when the Armies of *Israel* and *Abshalom* were pitched in the Land of *Gilead*) had relieved *David* and his People with him, with all manner of Forrage, Beds, Basons, Earthen Vessels, Wheat, Barley, Flower, parched Corn, Beans, Lentils, parched Pulse, Honey, Butter, Sheep, and Cheese of Kine, that *David* and the People with him might Eat and refresh themselves; for there it is said, the People were hungry and weary, and thirsty in the Wilderness, in the 18th. chap. we have the Relation of the Defeat of *Abshalom's* Army and his death; in the 19th. chap. we have King *David* saying unto *Barzillai*, come thou over *Jordan* with me, and I will feed thee with me in *Jerusalem*. *Barzillai* was to have been made *Comes Palatinus*, was to be taken into the Kings own Family, and to feed with the King at his own Table. But the good old Man being very Aged excused the matter, saying, Thy Servant will go a little way over *Jordan* with the King: and why should the King recompence it me with such a reward? Let thy Servant (I pray thee) turn back again, that, &c. But behold! my Son thy Servant *Chimbam*, let him go over with my Lord the King, and the King answered, *Chimbam* shall go over with me, and I will do to him that shall seem good unto thee, and whatsoever thou shalt require of me, that will I do for thee: and all the People went over *Jordan*, And when the King was come over, the King kissed *Barzillai*, and Blessed him, and he returned to his own place. Hence may be inferred, that the King hath not only *penam*, Punishment, but also *præmium*, Reward, in his Power, and so he is set over us, not only for the punishment of them that do evil, but also for the praise and reward of them that do well. And as if

for the Life only of King *David*, to have created *Chimham*, *Comitem Pallacii sui*, or *Pallainum*, had not been a reward suitable to the Merits of good old *Barzillai*, in the First Book of *Kings*, the 2^d. chap. and the 7th. verse, we may see, That when the days of *David* drew nigh that he should die, and that he gave several things in charge to *Solomon* his Son; amongst the rest he gave him a special charge to shew kindness, not unto *Chimham* only, but unto all the Sons of *Barzillai* the *Gileadite*, charging him, that he let them be of those that Eat at his Table (rendring this for reason) for so they came to me when I fled because of *Absalom* thy Brother. *Abfit*, be it far from me, I do not mention this matter, as if I would thence infer, that King *David* was obliged to have done this Honour to *Barzillai* and his Sons: No! *Cujus est dare, ejus est disponere*, he that hath the power to give Honour or Reward, hath also the disposing power to give, to whom, what, and when he pleaseth; and the very words of *Barzillai* (and why should the King recompence it me with such a reward) manifest, that good old *Barzillai* thought it his bounden Duty to do what he had done. And as appears (by the preamble of the Statute of 11th. H. 7th. ca. 1.) Every Subject of this Realm of *England* by Duty of Allegiance is bound to serve his Prince and Sovereign Lord in his Wars, for the defence of him and the Land against every Rebellion, Power and Might, reared against him, and with him to enter and abide in service in Battel. And Sir *Edward Coke* also (in the 7th. part of his *Reports* Fol. 7: b. 8. a.) saith, that all Subjects are bound to go with the King in War, *infra & extra regnum*, both within and without the Kingdom.

CHAP. IX.

Herein you have a Subject defined, you have Ligeance defined, and is shewed that the King hath two Capacities, the one Natural, and the other Politick, that the body Politick cannot be separated from the Body Natural; that Ligeance is due to the Natural Body of the King; that the Kingdom of England admits of no interregnum, and that the Disherison of the Right Heir of a Kingdom is wont to be the beginning of Civil Wars.

NOW whosoever is born under a natural Ligeance due by the Law of Nature, is a Subject. And it is neither *cælum*, Heaven, nor *solum*, the Soil, that makes the Subject, but Ligeance: which is of as large extent and Latitude, as the Royal Power and Protection of the King is; which Allegiance or Ligeance is a true and faithful Obedience of the Subject due to his Sovereign; and is, or ought to be an incident inseperable to every Subject; because *Ligeantia est vinculum fidei*, the bond of Faith, *est quasi Legis essentia, est ligamentum, quasi ligatio mentium; quia sicut ligamentum est connexio articulorum & juncturarum, &c.* As the Ligatures or Strings do knit together all the Joints of all the parts of the Body, so doth this Ligeance joyn together the Sovereign and all his Subjects; *quasi uno ligamine*, as in one knot or tye. In some Acts of Parliament, Subjects are called Leige Subjects or Leige People; and again in some Acts of Parliament, the King is called Leige Lord of his Subjects, so that I may further say, *Ligeantia est quid quodammodo reciprocum*, a certain Reciprocal thing; hence it is we say, *Protectio Regis trahit subjectionem subditi, & subiectio subditi trahit protectionem Regis*, The Protection of the King doth draw or attract the Subjection of the Subject, and the Subjection of the Subject doth draw or attract to it the Protection of the King. So that this Ligeance is the mutual Bond and Obligation between the King and his Subjects, whereby Subjects are called his Leige Subjects, because they are bound to Obey and Serve him, as well in times of War, as in times of Peace; and he is called their Leige Lord, because he is

to maintain them in their just Rights and Liberties by the power of the Sword times of War, and by the Legislative power to defend them in times of Peace from Injuries and Oppressions. Now the King is said to have Two Capacities, one Natural, the other Politick, one framed of God, the other by the Policy of Man, one subject to Infirmities, the other not. And the Estate Royal or Politick doth not confound the capacity of his Body Natural, but their Capacities remain distinctly as in other Persons that have double capacity as a Bishop or a Dean, &c. *Plow. 234. a.* and the Body Politick of the King may not be disjoyned or separated from his Body Natural, *Plow. 230. a. 242. b.* So that when the King is Sworn to his Subjects (as he is at his Coronation) he taketh Oath in his Natural Person, for the Politick Body is immortal, and invisible, nay, the Politick Body hath no Soul; for (as is aforesaid) it is framed by the Policy of Man, and therefore the King cannot be said to Swear in his Politick Capacity. In likewise when at the Assizes by the Judge of the Goal delivery, at the Sessions of the Peace, by the Justices or the Commissioners of the Peace; when at, or in the Leet, by the Steward there, the Subject is, or shall be Sworn to the King, to bear Faith and true Allegiance to his Majesty, his Heirs and Successors; then the Subject is Sworn to bear Faith and true Allegiance to the Natural Body of the King. And accordingly in all Indictments of Treason, when any intend or compass *mortem & destructionem Domini Regis* (which must needs be intended and understood to be of his Natural Body, for his Politick Body is Immortal and not subject to Death) the Indictment always concludeth with *contra Ligeantiae suae debitum*, contrary to the Duty of their Allegiance; and therefore Ligeance is due to the Natural Body of the King. And Sir Edward Coke says, this Ligeance or Faith of the Subject is *proprium quarto modo*, to the King (a degree beyond the Grammarians Superlative) *omni, soli, & semper*, to every King; to the King alone, and always to the King. And it will be material, and not contrary to Sir Edward Cokes meaning, to add these words (*de jure*) to every of his *omni, soli, & semper*. And so Ligeance will be due (as it is) to every King that is so *de jure* of Right, to him alone that is so; and always to him that is King *de jure* of Right. Thereby every King *de facto*, and Usurper will be excluded, and the greater safety will be secured to the King, and to the Subject too; for the Disherison of the Right Heir of a Kingdom is always wont to be the beginning of Civil Wars. But however Sir Edward Coke omitted those words (*de jure*) yet his meaning was without question the same, as if those words had been added, because C. 7. 10. b. he saith, that the King holdeth the Realm of England by Birthright, upon which Succession is ever attendant, and in the same place he saith, that the King *in individuo moritur*, but not *in genere*, which is as much as to so say, that

that the Natural Body of the King is subject to Death, but the body Politick of the King dyeth not. And therefore the Death of the Natural Body of the King is called, *Plow. 234. a.* the Demise of the King, because that thereby he Demiseth the Realm to another, and the Body Politick is transferred from one Body Natural immediately to another Body Natural, that Right hath; and that because our Realm doth not admit of any *Interregnum*. Hence it was that in the year of our Lord, 1660. at the very instant of his late Sacred Majesties most happy Restoration, all Charters, and Writings whatsoever were Written, Reputed and Esteemed to be made in the Twelfth year of his Reign, though that from 1648. to that time, he was injuriously and wickedly, Deprived, Robbed, and kept out from his Inheritance of all his Regal Rights of the Crown (whereof he was the undoubted right Heir) by the late Usurpers.

CHAP. X.

Herein you have an Heir defined, and divided, and is shewed, that the Right Heir of the Crown ought not, nor can lawfully be Disinherited; that a Bastard ought not, nor can be Heir to the Crown; and further something is said to the late Bill for the Exclusion of the late most Illustrious Prince James Duke of York, now our Sovereign Lord, King James the Second.

NOW Sir Edward Coke in the First part of his *Institutes* Fol. 7. b. saith, that in the Legal understanding of the Common Law, he is said to be *haeres*, an Heir, that is, *ex justis nuptiis procreatus*, for *haeres legitimus est, quem nuptiae demonstrant*, and is he to whom Lands, Tenements, or hereditaments by the Act of God, and right of Blood do descend of some Estate of Inheritance; for *solus deus haereditatem facere potest, non homo*, God alone can make an Heir, not Man. And Heirs, are either Lineal, (who ever shall first Inherit) or Collateral, (who are to Inherit for want of Lineal) Lineal descent is conveyed downwards in the right Line, as from the Grandfather to the Father, from the Father to the Son, &c. Collateral descent is derived from the side of the Lineal, as Grandfathers Brother, Fathers Brother, &c. Now in Mr. *Swinb.* 5th. part, Fol. 289. he that hath Issue Natural, but not Lawful, is said to die without Issue, and in such Case, the Fathers
Brother

Brother shall Inherit, and not the Issue Natural of the Father, for such Issue Natural in our Law is said to be *nullius filius*, no Mans Son; whence may be Inferred, that no Mans Son shall Inherit no Mans Land, much less a Crown. And in the 23^d. chap. of *Deuteron*. the 2^d. verse is said, *a Bastard shall not enter into the Congregation of the Lord; even to his Tenth generation shall he not enter into the Congregation of the Lord*. And 10. H. 7. 18. it is said, that *Rex est persona mixta cum sacerdote, quia tam Ecclesiasticam, quam temporalem habet jurisdictionem*, The King is a person mixt or participating with the Priest in the Priesthood, because he is said to have Ecclesiastical Jurisdiction, as well as Temporal. And Sir *John Fortescue*, Fol. 95. a. b. saith, that it is convenient, that Mans Law in the benefit of Succession should cut them short; whom the Church judgeth unworthy to be received into Holy Orders; yea, whom Holy Scripture judgeth (as touching their Birthright) inferior to the Legitimate, or Lawfully Begotten; as we read (in the 25th. chap. of *Gen*. 5, and 6th. verses) *Abraham* gave all his Inheritance to his Son *Isaac*; and to the Sons of his Concubines he gave Gifts. And again in Mr. *Swinb*. part 5th. Fol. 17. is said, A King may (*ex plenitudine potestatis*) make his unlawful Issue capable of whatsoever by Will deviseable he doth give or bequeath unto him. But Mr. *Plowden* saith, 247. a. b. It is an evil or unlawful thing to Disinherit the Right Heir. And Mr. *Swinb*. in his 2^d. part, Fol. 118. saith, that by the Civil, Canon, and Common Laws also of this Realm of *England*; It is unlawful for a King to give away his Kingdom from his Lawful Heirs. However, we had lately a House of Commons, or rather a Major part of them, that had framed a Bill for the Excluding and Disabling the then most Illustrious Prince *James* Duke of *York*, now King *James* the Second, for ever, from Possessing, Having, Holding, Inheriting, and Enjoying of the Imperial Crowns of this Realm and Kingdoms. It was a Presumptuous Bill for the Excluding of the Presumptive Heir of these Crowns. However, it was refused by the Lords House, and so could not be offered to his late Majesty, for his Royal Assent to make it a Law.

Have me excused for saying it was a Presumptuous Bill; Matters of that nature have been in times past esteemed so; in 35^o. *Eliz*. Mr. *Peter Wentworth*, and Sir *Henry Bromley*, delivered a Petition to the Lord Keeper, desiring the Lords of the Upper House, to be suppliants with them of the Lower House unto her Majesty, for entailing the Succession of the Crown, whereof a Bill was ready drawn: the Queen was highly displeased herewith, and charged her Council to call the Parties before them; so Sir *Thomas Heneage* was sent to fetch them, they were first commanded to forbear going to the House, and not to go out of their several Lodgings, afterwards they were called before the Lord Treasurer, the Lord *Buckhurst*, and Sir *Thomas Heneage*; *Wentworth*

Worth was Committed to the Tower, Bromley to the Fleet, together with Mr. Stevens, as also Mr. Welch Knight for Worcester-shire; and yet it was then thought no Breach of Priviledge. They that meddle with this matter of the Succession to the Crown, do not only trench upon the Power and Priviledge of Almighty God, who(as the Prophet *Daniel* tells us in his 4th. chap.) is the most High that Ruleth in the Kingdom of Men, and giveth it to whomsoever he will; but also we have found by woful experience, that they Prævaricate with the King himself, for in the very word (King) is included all Succession; so that where a Guift is made to the King, a Fee-simple passeth without the words (either of Heirs or Successors or both) as may be seen C. *Inst.* 1. part 9. b. and in the same Book, Fol. 22. b. is said, a Man cannot have an Heir during his Life, for *non est hæres viventis*. And Mr. *Plowden* 45. b. saith, no Heir hath Right or Title till after the Death of his Ancestor, that hath the Inheritance (be the Heir either Lineal or Collateral) and not in his Life: and this is, because let all the provision imaginable by Man, nay by a Parliament be appointed; yet the same, by the death of the Presumptive Heir, or Heir apparent in the Life time of the Ancestor, by the Act of God, not otherwise may, and can be disappointed. And Anciently, and now also, (as in C. 8. 28.) it is held, That *Princeps coruscat radiis Regis, & censetur una persona cum Rege*, the Prince is enlightned and made splendid by the shining brightness of the King, and is esteemed to be one and the same Person with the King. And as in *Bracton* cited by *Stanf.* 99. b. Since *nihil aliud potest Rex interris (cum sit Dei Minister & Vicarius) quam quod de jure potest, id quod potestas juris, sua est, non injuriæ, &c.* because the King (as he is Gods Minister and Vicegerent) can do nothing upon the Earth, but what he may do by Law, so that the Power of Equity and Justice, not of injury, and Injustice, is properly said to be his Power. Therefore his late Sacred Majesty, (not being minded to Calm the Stormes of some discontented Spirits, by stirring up a Tempest in his own Bosom) was pleased (at the opening of the late Parliament at *Westminster*,) to signifie to the Two Houses, that he desired them to preserve the Succession of the Crown in the right Line, and withall intimated to them, that he would give his Royal Assent to any Laws they should devise or make for the Security of the Protestant Religion, as it is now Established by Law in the Church of *England*, or to that Effect; but we are living in *face seculi*, in the very Dregs, and the very last and worst of Days; we are Jealous again of our own shadows, nay we mistrust Gods Providence and Protection; and the Kingdom again is like to be ruined by secret Plots and Machinations. We have for many years (by the wonderful Providence of God) been delivered from the Slavery and Superstition of Popery. And yet nothing is now more feared, than the Introduction and Publick ex-

ercise of Popery again in these Kingdoms. Although as King *James* the First the Royal Grandfather of our gracious Sovereign Lord King *James* the Second, in his first Speech to his first Parliament, next after his Advent to the Crowns of *England* and *Ireland*, did declare that it was then our happiness, that our Head (meaning himself) was of the same Religion, that the Body was of! and that as he was no stranger to us in Blood, no more was he a stranger to us in Faith, or in the matters concerning the House of God; so likewise his Sacred Majesty (whom God long preserve) in his first Speech to his Privy Counsel, next after his first Advent to the Crowns of *Great Britain* and *Ireland*, hath been Graciously Pleased to Declare, that he will do his utmost endeavours to Preserve and Defend the Government in Church and State, as it is now Established by Law in his several Realms and Dominions. And besides divers other undeniable Arguments might demonstrate, that his late Sacred Majesty, or his dear Royal Brother, now King *James* the Second, never intended in their Imaginations the least thought to make any alteration of the Protestant Religion (as it is Established by Law) in the Church of *England*; that further happy alliance of Marriage contracted and Consummated between the Eldest Daughter of his Royal Majesty and the most Illustrious Prince of *Orange*; And a later Marriage contracted also and Consummated between his Younger Daughter, and the most Illustrious Prince *George* of *Denmark*; most clearly confirms the reality of their intentions herein: by which Nuptial engagements, it appears further, that their joint endeavours have been, not only to defend, uphold, and maintain a bare profession thereof in these his Majesties Dominions, but also to enlarge and corroborate it abroad, as much as lyeth in their Power. Do we not know, that when a Protestant Prince is to intermarry with a Foreign Princess of the Catholick Religion, what great care and provision is made by the Parents or Friends on either side, by Articles made, and confirmed by some Ministers of State, equally chosen and impowered for the purpose of her having a set number of Priests, and other Ministers and Servants of her Judgment and Profession; for the due Administration and Execution only of such Rites and Ceremonies, as are proper for her having and enjoying that Freedom and Liberty that is agreeable to the Rule of her Conscience, in that Religion wherein she hath been born and educated? And (I pray) in the time of his late Sacred Majesty (by whom the true Protestant Religion was professed, that by Law is Established) why might not some wholesome Law or Laws have been made by the great Council the Parliament, for the prevention of the extirpation of the Protestant Religion, and the setting aside those Idle and Avidy Jealousies of the Massacre of the true professors thereof after his Demise or Death? But alas! I fear I am mistaken in, or do not put the question right; there are divers

divers Sects, and not Religions, such as are called *Presbyterians*, *Anabaptists*, *Independents*, *Quakers*, and I know not how many sorts of *Novelists* amongst us, (that had not only their Birth and Production, but also their full growth in the late times of Usurpation and Rebellion) who (though they differ in judgment amongst themselves) yet in this (as formerly) they are all still agreeing that if they had but the opportunity, they would all shake hands, and join together in being against the Kings Supremacy in Church and State, as much, if not more, than the *Papists*. For these several sorts of Sects, do not so much differ from us in points of Religion, as in their confused form of Policy and Parity, being ever discontented with the present Government, and are impatient to suffer any Superiority, which maketh these Sects unable to be suffered in any well governed State or Kingdom. But if we take into serious consideration, that it is above Forty years since the late times of Rebellion, and that every Individual person now living, and that hath since attained to the Age of Fifty years, or thereabouts, were then Children, and had not the discretion to discern or put a difference between good and evil, if we consider the great changes, and mighty revolutions, the Metamorphosis, and Transposition of all things, in point of Government then; and afterwards in time, till his late sacred Majesties most happy Restauration; then all these Sects or most of them, I hope, will be ready to conclude with me, that they did not, nor could know better because that in their Youth, in stead of better, and more wholesome nutriment, they sucked in, were nursed, and educated in those bad times upon Venomous and Rebelious Principles.

*Quo semel est imbuta recens, servabit odorem
Testa, diu, &c.*

Horace.

Accordingly, what Children have been instructed or Grammart in, in their Youth, it is hard for them to leave in their Old or Elder years: some of these several Sects do still retain their first drunken in Liqueur, upon a certain shamefacedness to be thought curious, or changeable; others of them (that are more Willful and Obstinate) will not be reformed, because contrary to St. Pauls advice, *Rom. 12. 16.* they are wise in their own conceit, and will not be informed.

C H A P. XI.

Sheweth that Ignorance of the Law will excuse none, and that therefore all Dissenters to the Government in Church and State, are advised to Conformity.

IT is horrible, that St. Paul saith, *they that resist shall receive to themselves Damnation*, Rom. 13. 2. I pitty them therefore, and wish charitably their conversion. I do not Condemn, yet can do no less than shew them their Peril. Ignorance of the Law excuseth not, but it be invincible, (that is to say) they have done that in them is, to know the truth; as to counsel with Learned Men, and to ask them what the Law is in that behalf, and if they answer them, that they may do this or that Lawfully; however they may thereby be excused in Conscience, yet in Mans Law (saith St. *Fermin Dr.* and *Stud.* 46. a.) they are not thereby discharged, but they that have taken upon them to have knowledg of the Law: be not excuse by ignorance of the Law: nay! no more are they that have a Willful Ignorance, and that would rather be Ignorant than to know the Truth, and therefore will not dispose themselves to be informed, or to ask any Counsel in it, and if it be a thing that is against the Law of God, or the Law of reason (as the matter of Obedience to the Magistrate Supream and Subordinate is) no Man shall be excused by Ignorance. And the same Author Fol. 146, 148. saith, that Ignorance in the Law, though it be invincible, doth not excuse as to the Law; for every Man is bound at his Peril to take knowledg what the Law of the Realm is, as well the Law made by Statute, as by the Common Law, giving for reason, that there is no Statute made in this Realm, but by the Assent of the Lords Spiritual and Temporal, and of all the Commons (that is to say) by the Knights of the Shire, Citizens, and Burgessees, that be choson by Assent of Commons; and every Statute there made, is of as strong Effect in the Law, as if all the Commons were there present personally at the making thereof: and so since all were makers of the Statute, the Law presumeth that all have knowledg of that, that they make, and are bound at their Perils to take knowledge of the Statute that they make: and so be all that come after them. And Mr. *Plowden*, Fol. 343. a. saith, that Ignorance of the Law is not to be presumed to be in a Subject, and that therefore Ignorance of the Law

Law shall excuse none. Therefore let all of the Sects aforesaid, who through Curiosity, affectation of Novelties, want of better Education in their Youths, or that they will not yet suffer themselves to be weaned from the good Old Cause (as it was called in the late times of Rebellion) let them all make hast to come over, and joyn with us in the same way and Worship of God; and let them be more careful how they are for the future Factious, stirrers of Sedition, and disturbers of the Publick Peace. All of all sorts, have had ample proof of his late Sacred Majesties gracious Favour, Mercy, and Amnesty since his coming: yet some good Old Cause Men (none will deny but *Walcot* and *Rumbald* were such) and others of Wicked, and Traiterous principles, lately contrived, and Plotted Barbarously to Murder his late Gracious Majesty, and his dear Royal Brother, since our Lord the King, and then the most Illustrious P. J. D. of *York*; and instead of the best Government in the whole Christian World, to have introduced a Hexarchy or a Government by Six; whether joynly or separately is not much material to enquire. All persons in general within the Three Kingdoms, are infinitely bound to praise God, for the preservation of the Lives of his late Sacred Majesty, and his dear Royal Brother our Sovereign Lord; and for the timely discovery of their Wicked and Hellish designs and Machinations, that threatned not only the alteration of the Government in Church and State; but also then was by designed and forethought malice purposed, and intended the expence of the Royal, and all Loyal Blood. And (God give us all Grace to be thankful) some only that were to have been the Malitious Authors, and instigators of its Effusion; have therefore suffered according to Law, and their Wicked and Willful Obstinacy hath been corrected by the Magistrate: and by Gods great Goodness and infinite Mercy, his late Sacred Majesty his dear Royal Brother now King *James* the Second, and the publick Peace of all the Three Kingdoms are preserved in peace and safety; and under his Sacred Majesty, as under a goodly Cedar Tree of full growth, irremovable not to be otherwise, or other where, set, planted, or supplanted, all his Subjects sit secure and are protected.

C H A P. XII.

Sheweth that all Subjects owe true Ligeance to their Sovereign, though they never were, or ever shall be Sworn to the same; and is shewed the diversity between Enemies, and Rebels, then all are advised from Rebellion, and is shewed that the King hath no Peer, and therefore cannot be judged by his Subjects for his Actions.

I*lla est sit Majestas Regis*, let the Majesty of our King hereafter be free from all hurt and injury, either in our thoughts, words, or deeds. And since you have heard, not only *cui, sed quomodo, debetur Ligeantia*, not only to whom, but also in what manner your Ligeance is due unto the Natural Body of our Lord the King, (which is always, at all times, and in all places, accompanied with the Body Politick, and cannot be disjoyned or separated, from the same) you are likewise to understand, that this Ligeance doth not begin by the Oath in the Leet, or elsewhere; and that the Swearing in the Leet, or elsewhere; maketh no denization. For all Subjects owe true Ligeance to their Sovereign, though they never yet were, nor ever shall be Sworn in the Leet; only that the King may have an account of his Peoples Frank pledg for their due Obedience, and Subjection within the Precinct of every Leet; the Municipal Laws of this Realm have prescribed the Order and Form of this Oath of Allegiance to be administered at or in the Leet. All Subjects are Born under this Natural Ligeance, Aliens and Strangers only are properly said to be *amici*, or *inimici*, to be in League with us, or to be Enemies to us. *Hostes sunt qui nobis; vel quibus, nos bella decernimus; ceteri proditores, prædones, &c.* They are Enemies, against whom our King Proclaimeth War, or who Proclaim War against our King; all others are Traitors, Rebels, Thieves and Robbers. A Rebel is to be Indicted, but an Enemy is to be put to death by Marshal-Law. Now as outward Peace is a great Blessing, yet is it as far inferior to Peace within, as Civil Wars are more cruel and unnatural than Wars abroad; for avoidance whereof, let all in general refuse so much as to harbour in their thoughts, that detestable and long since exploded opinion, that levying of War against the Command of the King, though his person be present, is no levying of War against the

the King; but the levying of War against his Politick Person, and Laws, that is the only levying War against the King. Admit of this damned Thesis or Position, then we are all presently fellows at Footbal; and Ove^r Milk will presently be as good as *Swasey* Cream: and whatever gets uppermost, will be King. In the time of *Edward* the Second about 400 years since, this separation of Sovereignty from the person of the King, and manner of abstracting the Person of the King from his Office, was found out by the *Two Spencers*, the Father and the Son; who to cover their Treason, invented this damnable opinion, that Homage, and the Oath of Allegiance, were rather by reason of the Kings Crown, than his Person: upon which (as may be seen in C. 7. 11. a. b.) were inferred these Execrable Consequences, First, If the King did not demean or behave himself well, his Liege People were bound by their Oath to remove him. Secondly, Because the King might not be reformed by suit of Law, that ought to be done by asperity. Thirdly, That his Liege People are bound to govern in aid and default of him. All which detestable opinions were then condemned in two Parliaments, the first was by an Act made in the time of *Edward* the Second, called *Exilium Hugonis De Spencer*, the Banishment of *Hugh Spencer*; the last was by an Act made in the First year of *Edward* the Third the first Chapter. Let all take notice, that by the Laws of our Realm of *England*, all Power, Sovereignty, Homage, Allegiance, and Subjection is commanded and required, as properly due to the Natural Body of the King. And that therefore it was said by *Glanvil* (who was Chief Justice in the time of *Henry* the Second) *Dominus Rex nullum habere potest parem, multo minus Superiorem*, Our Lord the King can have no Peer or Equal, much less can he have any Superior within his Realms or Dominions. And *Bracton* (qui sub *Henrico tertio viginti annos summi Justiciarii munere defunctus est*, that for Twenty years together was Chief Justice in the time of *Henry* the Third) saith, that *Omnis quidem sub Rege, & ipse sub nullo, nisi tantum sub deo*, every Man is under the King, and he is under none but God alone. And *Non potest Regi necessitatem, aliquis imponere, quod injuriam suam corrigat, & amendet; cum superiorem non habeat nisi deum*, & satis erit ei ad pœnam quod Dominum expectet ultorem, nor (saith he) can any Man put a necessity upon the King to correct and amend his injury, unless he will himself, since he hath no Superior but God; it will be sufficient punishment for him to expect the Lord for his Avenger; neither hath he hereby other Priviledge, than what by God Himself is given to Kingly Majesty (as may be seen in the 8th. chap. of Ecclesiastes, 2, 3, and 4th. verses) I Counsel thee to keep the Kings Commandment, and that in regard of the Oath of God: be not hasty to go out of his sight; stand not in an Evil thing, for he doth whatsoever pleaseth him; and where

*the word of a King is, there is Power; and who may say unto him, What dost thou? Yet I observe that once heretofore, the Miter may be said Sawcily to have Oretopped the Crown, in the 20th. year of King Henry the Eight, we read in Mr. Howes Chronicle Fol. 541. that the Kings Marriage came on to be argued in open Court at the Black Fryers; then the King and Queen were Summoned and Ascired to appear; but there may be seen, what the opinion of wise Men in those times was thereupon; which was, that it was a strange sight, and the newest device that ever was read, or heard of before in any Region, Story, or Chronicle, a King and Queen to be constrained by Process compellatory to appear in any Court as Common Persons, within their own Realm and Deminion; to abide the Judgments and Decrees of their own Subjects, being the Royal Diadem and Prerogative thereof. However this was the less wonder then, because the Pope did then send as Legate into England, the Cardinal Campejus, to debate the Controversie delegated to him, and the Cardinal of York, for the publication of the invalidity of the Kings first Marriage; at the instance of the King himself; as may be seen in Guicciardin's History, Fol. 756. But as we may see in *Stansf. 153. a.* The King of England hath no Peer in his own Land, Realm, or Dominion, and therefore he cannot be Judged, or called to account for his Actions by his People. Nay! it may be there seen, that Parliaments are Assembled for the profit of the King and his People; and the People are Summoned thither by the Kings Writ, *ad consulendum, &c. non ad confedendum solum, multo minus ad supersedendum*, to consult of the certain difficult matters, &c. not only there to Sit together, much less to Sit upon their Lord the King in Judgment.*

C H A P. XIII.

Sheweth that no Action lyeth against the King, but in place thereof Petition must be made unto him; and that (due circumstances observed) the Subject shall have his remedy against the King by way of Petition, as readily as one Subject may recover against another Subject by way of Action in any of the Kings Courts: for that all his Majesties Subordinate Officers are Sworn to do Justice between the King and his Subjects, which if they do not, they are Answerable for the injury, not the King.

IT is said, C. 11. 72. a. b. That the King being the Lieutenant of God, *solum hoc non potest facere; quod non potest injuste facere*, which is agreeable to a Maxim in our Law, that the King can do no wrong; therefore, as we may see in Mr. Stanford, prer. 72. b. In place of Action against the King, (for the dignity of his Person) Petition must be made unto him in the Chancery, or in Parliament; for no Action did ever lie against the King at the Common Law, but the party is driven to his Petition, which is all the remedy the Subject hath, when the King Seizeth his Lands, or taketh away his Goods from him, having no Title by order of his Laws so to do. And this Petition is called a Petition of Right, because of the Right the Subject hath against the King, by the Order of his Laws to the thing he sueth for by Petition. And it may be sued as well in the Parliament, as out of the Parliament, and if it be sued in the Parliament, then it may be Enacted and passed as an Act of Parliament, or else to be Ordered in like manner as a Petition that is sued out of Parliament: And suit by Petition can be to none other than only to the King, for no such suit shall be made to the Queen, the Consort of the King, or to the Lord Prince; for these Personages have no such Prerogative. Further plainly shewing and declaring the manner of suing by Petition, and where, and in what cases it lyeth, and where not; and that (due circumstances observed by him that sueth by Petition) he may afterwards enterplede with the King; and (if cause be for the same) the Subject shall have right done him, and shall have restitution of that he sueth for by Petition, as readily

ly as one Subject may recover against another Subject in any of the Kings Courts. For the King of *England* hath all Subordinate Offices in him to grant, but none in him to use himself; and all his Subordinate Officers, Ministers of State, and such as do occupy Judicial places, and others, even from those of his Majesties Privy Counsel, to the Petty Constable, at their admittance to their Offices, are Sworn by meet Forms of Religious Attestations, or Oaths, for their just and upright Execution of the same between the King and his Subjects; meaning thereby not only to set God before their Eyes (whom by such Oath they call to Witness of their promise, and call upon for revenge of their falshood) but also they are thereby threatned with temporal peins, provided by the Policy of Christian Laws against corrupt dealings; and thereby their minds are strengthened, and they are Armed with Courage against the force of humane affections, which otherwise might allure or draw them to partiality, and out of the way of right Judgment and Justice. And the King (as is said *Plow. 231. b.* neither gives, nor takes, but by matter of Record; and therefore (Livery of Seizin being matter in Deed) the King ought not to do it, for he ought to have a Record for his Acts; therefore the King shall neither make Livery, nor take by Livery, and a Subject may not give Lands to the King by Act Executed in his Life time, if not that it be by Deed Enrolled, or other matter of Record. So that seeing the King must have a Record for his Acts, and that the same are had and obtained by his Subordinate Officers, if any thing be done in prejudice of the Subject, his Officers are answerable for the same, not the King. And also *C. 11. 90. b.* an Officer or Minister of the King may do nothing in disadvantage of the King, nor of the Subject; by reason Publick Officers are at their admittance to their Publick Offices and Employments Sworn, Well and Lawfully to serve the Lord the King, and his People; and that Lawfully they shall Counsel the King in his business, and that they shall not Counsel, nor Assent to any thing which shall turn him in dammage, or dishonour by any manner, way, or colour; and that they shall do equal Law and Execution of right to all his Subjects, Rich and Poor, without having regard to any Person, as may be seen in *Mr. Pulton's Statutes at large, 181b.* *Edward the Third*, in the Oath of the Justices, and the Oaths of the Clerks of the Chancery, &c. And *Stanford 59. a.* The King is said to be alwaies present in Court, and if the Parties in pleading, or any Jury in their Verdict, disclose matter that entitleth the King, and the Court shall adjudge for the King; though that he is not any of the Parties to the Action.

C H A P. XIV.

Sheweth what inconveniencies happen in the Realm of France, through Regal Government alone, with the Commodities that proceed of the joynt Government Politick and Regal in the Realm of England. And all the Community are herein dissuaded by mutinous and Rebellious practises to Disfranchise themselves.

IN Sir John Davyes rep. Fol. 40. b. it is said that the Kings of England have always claimed and had within their Dominions a Monarchy Royal, and not a Monarchy Seignioral, or Tyranny, and that under a Monarchy Royal, the Subjects are Freemen, and have property in their Goods; and Freehold and Inheritance in their Lands: but under a Monarchy Seignioral or Tyranny, they are all as Villains or Slaves, and are Proprietors of nothing, but at the will of their Grand Seignior or Tyrant, as in *Turkey* and *Moscow*. But Sir John Fortescue, Fol. 25, &c. saith, That the King of England cannot alter or change the Laws of his Realm at his pleasure; for that he Governeth his People, not by power only Royal, but also Politick, and such King Ruling by Power Royal and Politick, can neither change Laws without the consent of his Subjects, nor yet charge them with strange impositions against their Wills, so that to Rule the People by Government Politick, is no Yoak not only to the Subject, but to the King himself, accordingly within the Realm of *England*, no Man Sojourneth in another Mans House, without the love and leave of the good Man of the same House, saving in Common Inns, where before his departure he shall satisfie, and pay for all his charges there; neither shall he escape unpunished whosoever he be, that taketh another Mans Goods without the good will of the owner thereof; nether is it unlawful for any Man to provide and store himself of Salt, and other Merchandizes and Wares, at his own will and pleasure, of any Man that selleth the same; neither doth the King take away any of his Subjects Goods without due satisfaction for the same; neither doth the King by himself, or his Servants and Officers, leavy upon his Subjects, Tallages, Subsidies, or any other burdens, or alter their Laws, without the expresse consent and agree-

ment of the whole Realm in his Parliament. So that every Inhabitant of the Realm useth and enjoyeth at his pleasure all the Fruits that his Land or Cattle beareth, with all the Profits and Commodities which by his own Travel, or by the Labour of others, he gaineth by Land or by Water; not hindered by the injury or wrong detainment of any Man, but that he shall be allowed reasonable recompence. So that the People of *England* are plentifully furnished with all things, that are requisite to the accomplishment of a quiet and wealthy life, according to their Estates and Degrees; neither are they sued in the Law, nor are Arrested or Impleaded for their Moveables or Possessions, or Arraigned of any offence Criminal but only before ordinary Judges, where by the Laws of the Land they are justly intreated. And these are the Fruits which Government Politick and Regal conjoynd doth bear and bring forth. But in the Realm of *France* (where the People are Governed by Regal Power alone) the Villages and Towns are pestered with the Kings Men at Arms, and their Horses, so that it is hard in any of the great Towns there to get any Lodging; which Men at Arms, though they continue in one Village a Month or Two, do not, nor will pay any thing at all for their own charges, or for the charges of their Horses, and when they have spent all the Victuals, Fuel, and Horse-meat in one Town, then they go to another Town, wasting the same in the like manner, not paying one Penny for any necessities; and thus are all the Villages, and Unwalled Towns of the Land used, so that there is not the least Village there free from this miserable Calamity, but that it is Once or Twice every year beggered by this kind of pilling. And the King there suffereth no Man to Eat Salt within his Kingdom, except he buyeth it of the King at such price as it pleaseth him to Assess: and if any poor Man had rather Eat his Meat fresh, than to buy Salt so excessively dear, he is immediately compelled to buy so much of the Kings Salt at the Kings price as shall suffice so many Persons as he keepeth in his House. Moreover all the Inhabitants of that Realm, give yearly to the King, the Fourth part of all the Wines that their Grounds beareth, and every Vintner, the Fourth Penny of the price of the Wines that he selleth; And besides all this, every Village and Borough payeth yearly to the King great Summs of Money assessed upon them, for the Wages of Men at Arms; so that the charges of the Kings Army (which is ever very great) is maintained by the poor People of the Villages, Boroughs and Towns of the Realm; and (these things not considered) other exceeding great Tallages are yearly Assessed upon every Village of the same Realm to the Kings use, whereof they are no year releafed. And the People being with these and divers other calamities plagued and oppressed, do live in great misery and thralldom; for there the Princes pleasure standeth in force of a Law, so that by reason thereof, their Kings at their pleasure change

change Laws, make new Laws, Execute Punishments, burden their Subjects with charges, and also when, and as themselves list, they do determine controversies of Suitors as pleaseth them. I have shewed you here out of Sir *John Fortescues* Book *De laudibus legum Angliæ*. (For every sober Man would judge me, or any other a Mad-man, that should Write of Matters of this nature, without good and warrantable Authority for that is Written) what inconveniencies happen in the Realm of *France* through Regal Government alone, with the Commodities that proceed of the joynt Government Politick and Regal in the Realm of *England*; that being hence instructed with the experience of both Laws, we may the better by their effects Judg whether of them we ought rather to choose; for that, *Opposita juxta se posita magis elucescunt*, contraries laid together do the more perfectly appear. It is, and hath been held to be one of the principles of Policy in *France* to keep the Peasan (which is the Gros of the People) still indigent and poor, because they are of such a volatill instable Nature, that if they were Rich and Fed high, Wealth and Wantonness would make them ever and anon to be kicking against Government, and crying out for a change. The Old Cavalier now again takes leave to look Backward, and to put this Question to all the Commons of *England* (for it is only to them he directs this his Discourse, he may be taken notice of, not to have presumed to take upon him, to Advise the King or any of his severall Counsels) whether all the People of *England* (comprehended under the notion of the Community, or stile or name of the Commons of *England*) have not been for Threescore years last past and upward of as volatill, and instable a Nature, as ever the Gros of the People of *France* are, were, or possibly could or can be? I must Answer in the Affirmative, that the People of *England* in this latter Age have been very changeable, always endeavouring to promote alteration in Church and State; and so in the late times of Rebellion, they changed Peace for War, and consequently all the miseries and sad effects thereof were laid open to their Eyes; their Goods were spoiled, their Children Slain, their Wives and Daughters Ravished, their Cattle driven away, and themselves made miserable spectators to behold their own unhappiness; and though what by destiny was decreed, Man could not prevent; his late Sacred Majesty was Miraculously restored to his Realms and Dominions; yet still (by reason of variety of Opinions lodging in various, particular individual Persons Breasts, differing amongst themselves) the subversion and alteration of the Government (none will deny) hath again been menaced and threatned; and a person Good-enough for so Wicked an undertaking, was imployed with Letters, Legations and Messages, to invite and desire the Aid and Assistance of our dear Brethren the *Scots*, Ayiming again to have subdued all to their own Will and Power; under the Old disguises of Holy Combinations, in the same manner

manner as heretofore, by Solemn League and Covenant, or otherwise howsoever. But my good Brethren of all the Community within all his Majesties Realms and Dominions, seeing that as free born Subjects by Birthright, we are Entitled to all those Fruits, and Priviledges, Government Regal and Politick conjoynd beareth, let us take care for the future, that by Mutinous, Disobedient, and Rebellious practises, we do not Frenchifie, and Disfranchise our selves; knowing that he that is free, and voluntarily runneth into Fetters, is a Fool, and whosoever becomerh Captive without constraint, may be thought either willful or witless.

C H A P. XV.

Sheweth how tender this Government Politick and Regal conjoynd is of the safety of the Kings Person, and of all his Royal Rights and Prerogatives. And that our Law doth not reject Women or Infants in the high point of the Descent of the Crown; and that our King holdeth immediately of God to himself, and acknowledgeth no Prince on Earth his Superior.

NOW as Government Politick and Regal conjoynd is tender of the preservation of the just Rights of the Communalty; and this Communalty without a head can in no wise be said to be corporate, so in likewise we are to understand, it is as tender and curious, in the preservation of the Royal Rights, Priviledges, and Jurisdctions, and Prerogatives of the Chief Head, and Supreme Ruler of this Body Mystical, which is the King, or Queen of these Kingdoms. For in this high point of Descent of the Crown. Our Law doth not reject Women, tho Women are commonly said to be such, whom Nature hath made to keep home, to nourish their Family and Children, and do not meddle with matters abroad, nor are to bear Office in a City or Commonwealth, no more than Children and Infants; yet in such Cases, wherein the Authority is annexed to the Bloud and Progeny, as in the Descent of the Crown; there the Bloud is respected, not the Age, nor the Sex: and such a one is called an absolute Queen, which hath the Name not by being Married to a King, but by being the true, right and next Successor, in the Dignity, and upon whom by Right of Bloud that Title is descended. These (I say) have the same Authority, though they be Women or Children, in these our Kingdoms,

doms, Realms, or Dominions, as they should have had, if they had been Men of full Age. For the Right and Honour of the Bloud, and the Quietness and Surety of the Realm, is more to be considered than either the tender Age, as yet impotent to Rule; or the Sex, not accustomed (otherwise) to intermeddle with Publick Affairs, being always by common intendment understood, that such personages never do lack the Counsel of such Grave and Discreet Men, as be able to supply all other defects. Now we are to understand, that our Nation hath not used any other general Authority, neither Aristocratical, nor Democratical, but only the Imperial Monarchy, or the Royal and Kingly Majesty; which Anciently and at the very First (as in the time of the Heptarchy) was divided to many and sundry Kings, each absolutely Reigning in his Country, none under Subjection of other, till (observe) by Fighting one with the other, (the Overcomed always falling to the Augmentation of the Vanquisher and Overcomer) at last the Realm of *England* grew into one Monarchy; neither one of these Kings, neither he who first or at the last had all, took any investiture at the Hands of the Emperor of *Rome*, or of any other Superior or Forreign Prince; but (as may be seen in the Statute of 16th. Rich. the Second, chap. 5th.) held immediately of God to himself, acknowledging no Prince on Earth his Superior, and so we are to take notice, it is kept and holden at this day; and we may see that by a Statute made in the 13th. Car. 2d. ca. 1. That if any during the Life of the King Majesty, shall within the Realm or without, Compass or Intend the Death, or Bodily Harm, Imprisonment or Restraint of the Person of the King, or to Depose him from the Kingly Name of the Imperial Crowns of his Realms, or Levy Wars against him, or stir up any Forreigner to a Forcible Invasion, and such compassings shall express by Printing, Writing, Preaching, or Malitious and Advised Speeches, and be Convicted thereof upon the Oath of Two credible Witnesses; every Person so Offending shall be Adjudged to be Traitors, and shall lose and forfeit as in Case of High Treason. And by the same Act it is provided amongst other things, That if any shall affirm the King to be an Heretick, or a Papist, or that he intends to introduce Popery, or shall Maliciously and Advisedly, by Writing, Printing, Preaching, or other Speeches, Publish or Declare any word, or other thing or things to stir up the People to hatred or dislike of the Person of his Majesty or Government; every such Person thereof convicted, are thereby made incapable of any Office or Employment in Church and State, and are made lyable to such Further punishments, as by the Laws and Statutes of this Realm are to be inflicted in such Cases; take notice this Act was made presently after his late Majesties most happy Restauration, when again the Major part, (if not all then Living) of the Secluded Members in the late pretended Parliament without King or House
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of Lords, were again chosen by the Freeholders of their several Counties, to come to this long expected and much wished for Free Parliament. It would then have made a true *English-man* smile, to see Old Esq; *Prynne* trudge through *Westminster-hall* to the House of Commons with his Basket, not Silver Hilt Sword by his Side; time was then come that his Eyes were opened, and as a principal Member of that Parliament, he was one of the Framers of that Bill for the forementioned Act; wherein it is further-provided, that if any Person or Persons shall Maliciously, and Advisedly by Writing, Printing, Preaching, or Speaking, Declare or Affirm, that the Parliament began at *Westminster*, November 3. 1640. is not Dissolved nor Determined; or that it ought to be in being: Or that there lies any Obligation upon him or any other Person, from the Oath, Covenant, or Engagement, to endeavour a change of Government; or that both or either Houses of Parliament have a Legislative Power without the King; or words to the same effect. Every Person so Offending shall incur the danger and penalty of *Premunire*, whereof mention is made in the before mentioned Statute of 16th. *Rich.* the Second. I have made mention of this latter clause in the said Act the more especially, because thereby all *Interregna*, Kings *de facto*, wicked and injurious Usurpers are Excluded, and the Body Natural and Politick of our Lawful King are so conjoined and closed together, that (I hope in God) for the future, it shall not lye in the Power of the People by Rising in Rebellion against their Rightful Sovereign Lord, to make any Separation of the Sovereignty from the Person of our Lord the King, or to abstract the Person of our King from his Office; to the Ruin, Alteration, or Subversion again of his Majesties Realms and Dominions. And I have mentioned the former Clauses, to give you to understand, what care hath been made for the Security and Preservation of his Majesties Royal Person and Government, as it is freed and secured thereby from all Restraint, Bodily Harm, or violence whatsoever, by wicked Words, or Deeds.

C H A P. XVI.

Sheweth that all Unlawful Assemblies or Meetings for the Plotting of harm to the King, or the Alteration of the Government, are Unlawful, and further sheweth what Misprision of Treason is, and that it is the Duty of every good Subject presently to discover Treason.

NOW we are to know, how that we are forbid also (by sundry Laws in force) to Congregate and Associate our selves to Unlawful Assemblies, or Meetings in Coffee-houses, or elsewhere; where any discontented, seduced, wicked Persons shall Assemble themselves together, to Plot, or Contrive Bodily harm to the King, or the Alteration of the Government. If it shall be the hard mishap of any Loyal, and well affected Christian Person, to chance to be in such evil Company, let him learn of *Mordecai the Jew*, his Duty therein, (as we may see in the second chap. of the Book of *Esther*, the 21, 22, 23. verses.) *while Mordecai sat in the Kings Gate, Two of the Kings Chamberlaines, Bigthana and Teresh, of those which kept the Door, were wroth, and sought to lay hands on the King Ahasuerus; and the thing was known to Mordecai, who told it unto Esther the Queen, and Esther certified the King thereof in Mordecai's Name; and when inquisition was made of the matter, it was found out, therefore they were both Hanged on a Tree: and it was Written in the Book of the Chronicles before the King. And Ahasuerus afterwards reading in the Chronicles of the good service done by Mordechai, took care for his reward, as may be seen in the sixth chap. of the said Book of Esther.* And we may see in *Stanf. 37.b.* when one knoweth that another hath done Treason, or Felony, and he will not him discover to the King, or his Counsel, or to some Magistrate, but concealeth his Offence, that is Misprision; which Offence, *Bracton* placeth amongst the Offences of Treason, because he was of opinion, that concealment beyond a certain time, shall make it a-

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mount rather to Treason than to Misprision: for that purpose he saith: *Statim, & sine aliquo intervallo, &c.* that presently and without any stop, pause, or giving over for a time, he ought to go to the King himself, if he may, or otherwise to some of his Secretaries of State, or some Magistrate, and to discover the whole matter in orderly manner: that he ought not to stay Two days or nights in one place before he sees the King; nor to be let or hindered by any business, though never so urgent: *quia vix ei permittitur, ut retrospiciat*, because the Law giveth him not so much time, as to look back; in some Cases, as we must render an account for every idle word, so must we likewise in this case, for our idle silence; for in such a Case as this, where any knoweth of any Conspiracy against his King or Country, he is bound by the Laws and Statutes of this Realm, presently to discover it; for as Fire in its beginning, whilst it is but small, is more easily quenched than it is afterwards, when by some continuance it hath gathered strength; so the beginning of Rebellious contrivances, being known and discovered, with more ease the sad events, and evil consequences thereof are nipped in the Bud, and are smothered hindered and prevented: therefore as to this Evil, or rather Devil of Rebellion, all are to be advised by the Poet, who saith;

*Principiis obsta: sero medicina paratur,
Cum mala per longas invaluere moras.*

CHAP. XVII.

Sheweth that all Writs, Process, Executions and Commandments, are and ought to be in the Kings Name only.

NOW I shall acquaint you further, that all Writs, Executions, and Commandments are done in the Kings Name. Nay! we do say in *England*, the Life and Member of the Kings Subject are the Kings only (that is to say) no Man hath hault or moyenne Justice but the King, nor can hold plea thereof. Hence it is, that those Pleas which touch the Life or Mutilation of Man, be called Pleas of the Crown; nor can be done in the Name of any inferior Person than he or she, that holdeth the Crown of *England*. And all Enditements, Presentments, and Processes relating to the Sessions of the Peace begin with *Juratores presentant pro Domino Rege quod I. S. de, &c.* or *Inquiratur pro Domino Rege si A. B. de, &c.* And every warrant from a Justice of the Peace upon all occasions whatsoever, directed to the Constable, begin with these or such like words, these are in his Majesties Name to Will and Require you forthwith, &c. If any Process, Summons, Invitation, or Commandment come to you, in Parliament time, or out of Parliament time, in any other Habit, Dress, or Name whatsoever. Be you assured, such Coin is counterfeit, and not currant within his Majesties Realms and Domions; but are deceitful and delusory, and may not improperly be likened to the Melody of *Syrens*, who Sing, not to stir up Mirth, but to allure unto danger and mishaps.

C H A P. XVIII.

All Freeholders are advised as to what manner of Persons they are, or ought to Choose for future Parliaments.

I Remember, I made mention of the Secluded Members in the late times of Rebellion, These were they with whom Treason had no place, because with them, Obedience to their Sovereign Lord the King and his Laws Ecclesiastical and Temporal bore sway, and held Principallity: some of whom (when the confluence and Clamours of the Tumults in those times passed all boundaries of Laws and Reverence to Authority, by the rude and unseemly deportments both in contemptuous words and actions of the vulgar, and that no means prevailed for their suppression) withdrew themselves with his Sacred Majesty King *Charles* the First, for the security of their Persons from Violence; others of them (when the Lords were Excluded and the House of Commons was purged by the Military power to a Rump Parliament,) for rotten Members (as they then termed them) were cast out, and all of them (that were afterwards living) were again chosen for Parliament-men upon his late Majesties most miraculous and happy Restauration. Many of them held their King and Country, and the Government thereof so dear, that in defence thereof, they feared not to hazard their lives and Fortunes. Such as these were, (Men Fearing God, Honouring their King, and abhorring to meddle or joyn with those that are given to change) I advise every Freeholder (who hath a voice in the Election of Knights, Citizens, and Burgessees) should Chose and Elect to sit in Parliament for the future, when his Majesty shall be pleased to Issue forth his Royal Writs for the same. It you know of any that have offended grievously in former Parliaments, Elect them not again, upon an expected repentance. (All jealousies and fears laid aside) Elect such as are Men of good Fortunes, not such as have their fortunes to make; such as are Wise and prudent Men in the management of their own private Affairs at home; and in their several Countries make a right and good use of those benefits which God hath put into their hands, for their succouring of others, their

their poor Tennants and Neighbours, whose vertue is yet altogether joyned with that Justice, that is prudently guided with Moderation and reason; for they that know well how to manage their own private Affairs (when called thereto) will in all probability, as carefully contribute their prudent and hearty endeavours for the preservation of the Publick Peace, and welfare of the whole Community. Let not Elections be carryed on (as heretofore) with partiality and popular heat, let the Gravity and discretion of the more sober, and better educated Gentry, allay and fix the Commons to a due temperament, guiding some Mens well meaning Zeal by such Rules of Moderation, as are best both to preserve, and restore the health, and welfare of all States and Kingdoms. Every Freeholder ought to know, and well to consider with what power he trusts those whom he chooseth, in regard the Power of the House of Commons is derived from that trust: and the Kings Writ directed to the Sheriff, gives Authority to the Freeholders to make their Elections; in which is expressed, not only the Sheriffs Duty in point of Summoning; but the Writ also contains the Duty and Power of such Knights and Burgeesses as shall be Elected, and such as shall be Elected, are to know, that as a Body Natural cannot do any perfect Act if it be dismembred (*viz.*) if the Head be in one place, and the Body in another place, and so of the rest of the Members of a Body Natural: so it is in like wise of the Parliament; which may be said by the Power of the King to be made corporate, or the highest Court aggregate and consisting of the King or Queen of *England*, the Lords Spiritual and Temporal, and the Commons in Parliament Assembled; the Members whereof are or ought to know that they are *Capitulariter*, or rather *sub uno capite congregati*, Chapterwise; or rather Assembled under one Head, which is the King or Queen thereof; who have the only Power, Priviledge, and Prerogative not only of Summoning, but also of Adjourning, Proroguing, and Dissolving of the Parliament; as also of Passing, or not Passing any Bills whatsoever framed for Acts at their own Wills and Pleasures. There is no Government more resembling Heaven, or more durable on Earth, or that hath any certain principles, but Monarchy, and such a Monarchy, that hath an actual visible military strength to support it self, not only to protect the Good and Loyal, but also to awe the Bad and Rebellious People. The King represents God, the Houses of Parliament the People. And (as in some sort is expressed before) the King by his Writ gives the very essence and form to his Parliament, being the production of his breath; therefore Priviledges which are the consequences of the Form, must necessarily flow from him. Now would you know how to Elect Men Fearing God, Honouring the King, and such as will not meddle with those that are given to change? Know and take notice,

notice, that true Religion is the well tempered Mortar, that buildeth up all Estates: that there can be no true Religion where the word of God is wanting or not duly observed. I have proved from, and made it plain to you, that the word of God condemneth and prohibiteth all mutinous Rebellious Actions whatsoever against the Magistrate either Supream or Subordinate. And because there can be no surer sign of the ruine of a Kingdom, than the contempt of Religion. My Advice is to all, that they would Conform, but as to such that will not Conform, nor be Reformed, nor advised to joyn with us in the way Established by Law for the Service and Worship of God, because they are either stubborn, obstinate, or wise in their own conceits, and will not be informed, such as these, that are Dissenters from us, in the better half of the Government; (that is to say) in the Government of the Church. I pray that (as they absent themselves from us in the Divine Service and Worship of God) so they would be pleased to absent and separate themselves from the publick meetings in their severall Counties for the Choosing and Electing of Members to sit in Parliament for the future; for as the Vessel savoureth of the same Liquor, wherewith it was first seasoned; so (it is to be feared) the mind of these Dissenters still retaineth those very qualities in their Elder Age, wherein it was trained up in Youth. However by their absence, their misguided Consciences will be clear, and the more Loyal and conformable Subjects by their so doing, will be less offended and disturbed in their choise and Election of such as themselves, that may better comply (than heretofore) they did with his late Sacred Majesty in making and constituting such wholesome Laws and Provisions, as may make for the security and preservation of our Protestant Religion, which is confirmed by Scripture, and History of Ancient Fathers in the Primitive Church, to be agreeing in Doctrine, and Discipline, with the truly Ancient Catholick and Apostolick Christian Religion and Profession (as it is now Established by Law) in the Church of *England*.

C H A P. XIX.

*Sheweth that the King of England is, and always hath been,
Supream Head of the Church, not the Pope.*

FOR we are to know and understand that the King of England is in all Causes, as well Ecclesiastical as Temporal, within these his Majesties Realms and Dominions Supream Head and Governour. By the Ancient Law of the Realm, the King hath power to visit reform and correct all Abuses and Enormities in the Church, and by the Statutes made in the time of King Henry the Eighth, the Crown was but remitted and restored to its Ancient jurisdiction, which was Usurped by the Bishop of Rome. *Reges sacro oleo uncti, spiritualis jurisdictionis sunt capaces*, Kings Anointed with Holy Oyl, are capable of Spiritual Jurisdiction. And 10. H. 7. 18. *Rex est persona mixta cum sacerdote*, the King is said to be a Person mixt or participating with the Priest in the Priesthood. Also the King shall have Tythes by the Common Law, of which no Lay Person can be capable. And the King by himself, or by his Commissioners, shall visit his free Chappels and Hospitals. And by the Cannon Law, *Omnes Reges dicuntur Clerici*, and another Text thereof saith, *quid causa Spiritualis committi potest Principi laico*. All Kings are said to be Clerks, and that however a Spiritual Cause may be determined by a Lay Prince, as may be seen in *Davyes rep. 4. a.* And although the proceedings in the Ecclesiastical Courts be in the Name of the Bishop, yet they are the Courts and Law of the King: as the Leet, though it be holden in the Name of the Lord of the Manour, yet it is the Court of the King. C. 5. 1. part 39. b. The Canonists ascribe to the Pope, Prerogative as to the Interpretation of Laws, and granting of Dispensations, but the jurisdiction, that the Pope by Colour thereof claimed in England, was a meer Usurpation to which the Kings of England (as I shall presently shew you) from time to time made opposition even to the time of King Henry the Eighth. And the King of England not the Pope, before the making the Statute of Faculties, might *de jure*, of right dispence with the Ecclesiastical Law: for though that many of our Ecclesiastical Laws were first devised in the Court of Rome, yet being established and confirmed in this Realm

Realm by acceptance and usage, they are now become *English* Laws; and are no more to be reputed *Romish* Cannons, and they are to be observed as the Laws of the Kingdom of *England*, and not to be esteemed or reputed as Rules of the Pope, *Davyes* rep. 71, 72. And the King is Supream Patron as King, and not as in respect of the Supream Jurisdiction that the Realm by the Statute hath acknowledged in him. Therefore a Resignation to the King of a Deanry, is as good as if it had been made to the Bishop, because that by the Common Law he is the Supream Head of the Church of *England*, and the Deanry is void by it. And the King shall be made privy, and shall give his consent to every Appropriation, where the Church is of the Patronage of another, as well as where it is of his own Patronage, *Plowd.* 498, 499. And it appeareth by *Doctor and Student* 124, 125. That the Law hath appointed Six Months unto the Patron to present his Clark unto the Bishop, but if the Patron do not present his Clark unto the Bishop within Six Months next after the Church shall become void, then shall the Lapse incur to the Bishop, and he shall present for the default of the Patron a Clark of his own choosing, and his presentation is called Collation; and if the Bishop or Ordinary surcease his time, and shall not Collate within the Six Months, then shall the Metropolitan (the Archbishop of the Province) Collate his Clark, and if he do not Collate within other Six Months; then shall the Kings Majesty (not the Pope) as Supream Ordinary of all the Benefices in *England*, present his Clark to the Church. And all the Archbishopricks, and Bishopricks within the Realm of *England*, are of the Kings foundation, and the Kings of *England* are the Founders of them all; and they sit in Parliament, and have the Names of the Lords of the Parliament, *non ratione Nobilitatis, sed ratione Officii*, not by reason of their Nobility, but by reason of their Office, and in respect of their Ancient Barrenies annexed to their dignities. *C. Inst.* 1. part. 97. a. And in *C. 5.* 1. part *Cardreys* Case, it may be seen, That King *Kenulphus* by Charter in Parliament in the year of our Lord 755. Exempted the Abbot of *Abingdon* from Episcopal Jurisdiction, and gave it him. That amongst the Laws of *Edward* the Confessor, it was Ordained, that he should Govern the Kingdom and his People; and above all the Holy Church, not the Pope. That *William* the Conqueror Appropriated Churches with Cure. That King *Henry* the First presented to Abbeys, as well by his Ecclesiastical, as his Kingly Power. That *Henry* the Third granted Prohibitions, and in Issue of Loyalty of Marriage, and general Bastardy, the King wrote to the Bishop as his immediate Officer. That in the time of *Edward* the Third, the Temporalities of the Archbishop of *York* were lost during his Life, for refusal of a Clark of the King

King, by reason of a Provision of the Pope. That by 25. *Edw.* the Third, a Man might kill those that procured Provisions from *Rome*, and those that executed them. Also by 25. *Edw.* 3d. It was Enacted, that the Pope shall not give Archbishopricks, Bishopricks, &c. but that the King them shall give, &c. That by 16. *Richard* the Second, chap. 5th. It is Enacted, That (because the King holdeth his Crown immediately under God) they who purchase or pursue in the Court of *Rome*, Translations, Processes, Excommunications, Bulls, Instruments, &c. and their Fautors and Councillors, shall be out of the Protection of the King, and *Præmunire facias* shall be awarded against them. That 2. *H.* 4. 9. It is resolved, that Collectors of the Pope by their Bulls have not any Jurisdiction here, and that the Archbishops, and Bishops are called the Spiritual Judges of the King. And 11. *H.* 4. 37. it is said, *Papa non potest mutare leges Angliæ*, that the Pope cannot change or alter the Laws of *England*. That 2. *Henry* the Fourth, chap. 3d. he that obtaineth from the Bishop of *Rome* to be exempt from regular Obedience, is within the Case of a *Præmunire*. That 6. *H.* 4. chap. 1. Forfeiture was imposed upon those who payed great sums to the Chamber of *Rome*. That by 2. *H.* 5. chap. 1. The King, not the Pope, gave power to the Ordinary to enquire of the Foundation and Government of Hospitals, and to correct, &c. That in 9. *H.* 6. 16. The King only can give License for the Foundation of a Corporation Spiritual, not the Pope. That 12th. *Edw.* 4th. 16. A Legate of the Pope was compelled to Swear that he would not attempt any thing against the Crown, &c. That in 2. *Rich.* 3. It is said, that Excommunication or Judgment at *Rome* is of no force here. That in First *Henry* the 7th. 10th. It is said, that in time of King *Henry* the Sixth, *Humphrey Duke of Gloucester* burnt the Letters of the Pope, that were in Derogation of the King, and his Crown. And 1. *H.* 7. 20. It is adjudged, that the Pope may not grant Sanctuary. And 25. *Henry* the 8. chap. 21. It is Enacted by the Statute forementioned of faculties, that none shall make suit to *Rome*, but that the Archbishop of *Canterbury* may grant to the King and his Subjects, such Licenses, Dispensations, Grants, Faculties, Escripts, Delegacies, Instruments, &c. not repugnant to Holy Scripture, as been used to be granted by the Pope, yet it is to be noted, that such Cannons, Constitutions, Ordinances, Synods, Provincials, &c. were provided to be in force, which had been allowed by general Consent, and Custom within the Realm, not repugnant to Law, or the Prerogative of the King, and so by the same general Consent may be Corrected, Enlarged, Explained, or Abrogated; hence we may rest satisfied, that for many Hundreds of years last past (successively) in the time of one King after another King (when all our Ancestors were Papists and of that profession) that yet the Government of the Church ever was inherent to the Imperial Crown of the Kings of *England*. In the time of King *Henry*

the Third, the Usurped Jurisdiction of the Pope was elevated more high, than ever before, or since, yet it may be observed, that in the Ninth year of his Reign, in the very first Chapter of the great Charter, Entitled and Called, The Confirmation of Liberties, is mentioned, First, We have granted to God, and by this our present Charter have confirmed for Us and Our Heirs for ever; that the Church of *England* shall be free, and shall have all her whole Rights and Liberties inviolable. And by the Statute of 24. H. 8. chap. 12. by 24. Bishops, and 29 Abbots, it is recited that *England* is an Empire, and that the King is the Head of the Body Politick, consisting of the Temporality, and the Spirituality implect and furnished with full Power to render final Justice in all matters whatsoever, as well Ecclesiastical as Temporal. And that part of the said Body Politick, called the Spirituality, hath been always thought sufficient, and meet of it self, without the intermeddling of any Forreign Pope, or any exterior Person or Persons (when any cause of the Law Divine happened to come in question, or of Spiritual Learning) to declare and determine all such doubts, and to administer all such Offices and Duties (yet as the Spiritual Judges of and under the King) as to their severall Roomes Spiritual doth appertain. And the Laws Temporal for Trial of Property of Lands and Goods, and for the conservation of the Realm in Unity, and Peace, without Rapine or Spoil, were, and yet are Administred, Adjudged, and Executed by sundry Judges, and Ministers of the other part of the Body Politick called the Temporality. And their Authorities and Jurisdictions do conjoyn together in the due Administration of Justice, the one is a help to the other; and both are a help to, and in case of the King the Head of this Body Politick; here you have concisely and in few words discovered unto you, the Ancient form of the Government of *England* both in Church and State, and accordingly in Ancient times, the Parliaments of *England* consisted only of the King, the Lords Spiritual, and the Lords Temporal, who were Anciently the Representatives of the whole Kingdom in Parliament Assembled under the Kings or Queens thereof; but for some Hundreds of years last past, a Writ hath been framed for the Election of Knights, &c. to sit in Parliament, and these Knights, &c. are to be chosen by the Freeholders in their severall Counties.

CHAP. XX.

As to the Kings Supremacy is shewed the difference between the Primitive and more modern times, herein the Author adviseth all to be at Unity within themselves, and since we are restored to our Ancient Government, to give to our Sovereign Lord the King his Dues; and desires all to joyn with him (in the Conclusive Prayer, for the Morning Service in our Church Liturgy) for the King.

NOW since, as the living Members of a Body natural united together, maintain life; so it is in a Kingdom, by concord of the People, the state thereof is maintained, but by their discord it is destroyed. And accordingly Holy Scripture tells us, that Houses or Kingdoms divided within themselves cannot stand, but true Peace is the quiet and tranquility of Kingdoms, burying all Seditions, Tumults, Uproares and Factions, and planting Ease, Quietness and Security with all other flourishing Ornaments of Happiness. Now would you be happy, and would you have your Posterity happy also? Pray to God (as you are directed by the Prophet *Jeremiah* in 32. chap. and the 39th. verse) that he would give you one Heart, and one Way, that you may fear God for ever, for the good of you, and of your Children after you. Labour therefore to be at unity within your selves; and above all, be advised, that when you again shall have a Lawful call to Elect Members for a subsequent Parliament, you be sure unanimously to choose such Men as are Men well affected to the better half of the Government (that is Established by Law) in the Church. For *nunquam bene res succedunt humanæ, ubi negliguntur divinæ*, things Temporal and Humane, never succeed well, where things Spiritual and Divine are neglected. Subjection is required by *St. Peter* (where before cited) to the King as Supream; and with me be pleased to consider the Authority of the words too (and marking the difference between the Primitive, and more Modern times, you shall not need to fear the introduction

duction of Popery again in these Kingdoms) who writes them? Observe, they come from *St. Peter*, from whom the Successors of *St. Peter* derive their Title of Supremacy above Kings. So that howsoever they will have the Authority Entailed upon them from *St. Peter*; yet *St. Peter* himself challengeth no such Supremacy, for he says, To the King (mark the Epethite) as Supream; 'tis true, we read that *Cardinal Bellarmine*, and *Boniface* the Eighth, and *Innocent* the Fourth, with others of that Party, being carried on by their Pride and Ambition, maintain the Head of their Church to have both the Swords, and therefore (say they) is above all Kings, and Emperors, that have but one; yet here we see, That in the beginning it was not so: *St. Paul* denies it, *St. Peter* disclaims it, and the Ancient Church, and (according to the practise thereof) all our Kings of *England*, Successively from time to time even to this present time, have disowned it. Remember and never forget, we had heretofore the Minor part of a House of Commons, Exercising the Sovereign Power, the corrupt Majority (as they then termed them) being ejected and cast out for Delinquents, and Malignants. And by them we had the Government Changed, or rather purposed to be changed, regality (it was then death to say the King) and House of Lords were cast of, next this we had nothing Visible, but a General and an Army. Next this we had the whole Constitution, Laws, and Liberties of the Kingdom at once subverted, certain Men being called by the Name of a Parliament, and the Sovereign Power pretended to be given them, that were never chosen by the People, but by we know not whom (such a fact as was never heard, or read, that any King of *England* was Guilty of, since Parliaments were known) Next this we had a Protector Governing by an instrument made by — God knows who. After this we had the same Protector Governing according to the humble Petition, and Advice (and Sworn to both) And (unto God be thanks for the same) by his late Sacred Majesties happy Restauration, we are also restored again, to our Ancient Government. Established by Law both in Church and State, and to the fruits and benefits of the same. Mark therefore what *St. Peter* saith in the 13th chap. to the *Rom.* give to all their Dues, Tribute to whom Tribute is due, Custom to whom Custom, Honour to whom Honour, Fear to whom Fear. *St. Paul* hereby adviseth us to our bounden Duties and due Subjection to the Magistrate Supream and Subordinate. And his advice may be reduced to these Three Heads, 1st, Supply to their Estates. 2^{ly}, Fear to their Authority. 3^{ly}, Honour and Reverence to their Persons. First, Their Estates are to be supported, for as one says, *Pecunia nervus Imperii*, without which the Work of the Magistracy can neither be effected
nor

nor respected; and as it is necessary, so it is convenient, that he that is imployed for the good of the Commonweale be supported by the Publickweale, for as saith *Seneca* cited by Mr. *Stanf.* in his *Prerogat.* 5. a. *Omnium somnos, illius vigilantia defendit, omnium Otium, illius labor, omnium delicias, illius industria, omnium vocationes, illius defendit Occupatio*, his Watchfulness keeps us in our Rest, his Pains secures our Pleasures, his Calling defends us in all our Callings. Secondly, Fear his Authority, the Apostle gives the reasons, *Rom.* 13. 4. *for he beareth not the Sword in vain*; he is the Minister of God, he comes Warranted with Authority, and as he hath Authority so he hath Power too; Might and Right are both in him: he is the fountain of Justice, and the life of the Law, he bears the Sword, and he bears it not for naught, therefore if thou dost Evil fear. Thirdly, Yield Honour and Reverence to their Persons, for though they are Men subject to the same Natural infirmities that we are; yet we must remember whose Person they bear upon them; they are the Deputies of God, And therefore Honoured with his Name, *I have said ye are Gods.* It is said of the *Persians*, that when they come into the presence of their Prince, they draw their Hands into their Sleeves, in token of their Reverence and Loyalty, they will not have a Hand stirring while Majesty is in presence. Now as to the concluding this my present Discourse, I pray not only your Hands be lifted up to Heaven, but your Hearts also, and that all may fervently joyn with me in the conclusive Prayer of our Church Liturgy for the Morning Service every *Sabbath-day*, which is as followeth.

Almighty

Almighty God, whose Kingdom is Everlasting and Power Infinite, have Mercy upon the whole Church and so rule the Heart of thy chosen Servant James our King and Governour, that he (knowing whose Minister he is) may above all things seek thy Honour and Glory, and that we and all his Subjects (duly considering whose Authority he bath) may faithfully Serve, Honour and humbly Obey him, in thee, and for thee, according to thy holy Word and Ordinance, through Jesus Christ our Lord, who with thee and the Holy Ghost, Liveth and Reigneth one God World without End. Amen.

FINIS.



ERRATA.

PAge 5. l. 23. for Petion r. Petition. p. 18. l. 2. for Priviledges r. Prerogatives. p. 21. l. 21. for agræing r. agreeing, l. 36. for joyned r. enjoyed. p. 25. l. 6. for datam sit r. datum sit, l. 8. for representons r. representans. p. 28. l. 2. for Pallainum r. Pallatinum. p. 29. l. 24. for tiabit. r. trahit. p. 30. l. 1. after Sword, add in. p. 42. l. 36. after King, dele and.

